14.08.2024
Item No.
ML 49
Saswata

W.P.A. 15204 of 2024

Snehalata & Sons
versus
The State of West Bengal & Ors.

Mr. Avra Mazumder
Ms. Alisha Das
Mr. S.Bhowmik
Mr. Samrat Das
Ms. Elina Dey
Mr. S.N.Banerjee

…For the petitioner

Mr. Anirban Ray, Ld. GP
Mr. Md. T.M.Siddiqui
Mr. Tanoy Chakraborty
Mr. S. Sanyal
Mr. D. Sahu

…For the State

1. Affidavit of service filed in Court today is retained with the record.

2. Challenging an order dated 9th April 2024 passed by the appellate authority under Section 107 of the CGST/WBGST Act, 2017 (hereinafter referred to as the "said Act"), this instant writ petition has been filed.

3. Mr. Majumder, learned advocate appearing for the petitioner submits that being aggrieved by an order passed under Section 73 of the said Act dated 29th December 2023 for the tax period from July 2017 to March 2018, an appeal was filed before the appellate authority. Unfortunately, by reasons of financial crisis, the petitioner could not deposit the entire pre-deposit as is required for maintaining the appeal. For reasons as aforesaid, the appellate authority, by an order dated 9th April 2024 was, inter alia, pleased to dismiss the said appeal.

4. Mr. Mazumder submits that the petitioner had all good intentions to pay. Unfortunately, it is by reason of the financial crisis that the petitioner could not make payment. The petitioner had, in fact, applied for extension of time to make payment. The appellate authority, however, by glossing over such application, had proceeded to dismiss

the said appeal. He further submits that this Court may be pleased to restore the aforesaid appeal and permit the petitioner to deposit the balance amount, as the order passed under Section 73 of the said Act dated 29th December 2023 severely prejudices the petitioner.

5. Mr. Ray, learned Government Pleader submits that since the petitioner did not deposit the pre-deposit as is required for maintaining the appeal, the appellate authority had dismissed the said appeal. According to him, there is no irregularity on the part of the appellate authority in dismissing the appeal.

6. Heard the learned advocates appearing for the respective parties and considered the materials on record.

7. Admittedly, in this case I find that since the petitioner could not make payment of the entire pre-deposit, the appeal had been dismissed. It is noticed that the petitioner cited financial stringency as the ground for non payment of the pre-deposit. Since the petitioner is now interested to make payment and having regard to the financial condition of the petitioner as noted above, I am of the view that justice would be subserved if a further opportunity is granted to the petitioner to make the pre-deposit.

8. In view thereof, the petitioner is directed to deposit the balance pre-deposit with the respondents within a period of two weeks from date. In the event, the petitioner deposits the aforesaid amount within the aforesaid period, the appellate authority shall hear out and dispose of the appeal on merits in accordance with law. As a sequel thereto, the order passed by the appellate authority on 9th April 2024 stands set aside.

9. It is made clear that if the petitioner does not make the aforesaid payment within the time prescribed as aforesaid, the benefit of this order shall not enure to the petitioner and the writ petition shall automatically stand dismissed.

10. With the above observations and directions, the writ petition being WPA 15204 of 2024 is accordingly disposed of without any order as to costs.

11. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(*Raja Basu Chowdhury, J.*)