

M/L 72
07.08.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 15583 of 2024

Bidyut Das
Versus
The State of West Bengal & Ors.

Ms. Sweta Mukherjee
Ms. Tanima Nandy
... For the petitioner.

Mr. Anirban Ray, Ld. GP
Mr. T. M. Siddiqui
Mr. Tanoy Chakraborty
Ms. S. Shaw
Mr. Saptak Sanyal
... For the State

1. Affidavit of service filed in Court today is taken on record.
2. Challenging the order passed under Section 73 of the CGST/WBGST Act 2017 (hereinafter referred to as the “said Act”) dated 19th May, 2023, for the tax period July, 2017 to March, 2018, an appeal had been filed before the appellate authority under Section 107 of the said Act. The same was, admittedly, barred by limitation.
3. Although, the petitioner claims to have appropriately explained the delay in filing the appeal, the appellate authority, by its order dated 3rd May, 2024, was pleased to reject the said appeal as being barred by limitation.

4. Ms. Mukherjee, learned advocate appearing on behalf of the petitioner would, however, submit that the appellate authority had acted mechanically in passing the order impugned as the appellate authority had failed to take note of the circumstances under which there had been delay in preferring the appeal.
5. Mr. Chakraborty, learned advocate enters appearance on behalf of the State respondents.
6. Heard the learned advocates appearing for the respective parties and considered the materials on record.
7. It appear that the appeal filed by the petitioner was duly accompanied with the amount of pre-deposit of Rs.6,09,156/- as is required for maintaining the appeal. Having regard to the aforesaid, it cannot be said that there is lack of *bona fide* on the part of the petitioner in preferring the appeal.
8. It also appears from the document on record that the petitioner had specifically averred in the application that due to sudden demise of his only son, in November, 2021, who was 20 years old, the petitioner could not look after regular affairs of the business which resulted in delay in preferring the appeal. The appellate authority, has, however, completely ignored

the same and has proceeded to dismiss the appeal by passing the order dated 3rd May, 2024, which at best, can be said to be a mechanical order.

9. In view thereof, the order passed by the appellate authority dated 3rd May, 2024 is set aside.
10. The explanation given by the petitioner is found to be sufficient. The appeal is restored to its original file and number.
11. The appellate authority is directed to hear out and dispose of the appeal on merits, as expeditiously as possible, preferably within a period of 8 weeks from date of communication of this order.
12. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)