16.04.2024
Item No.31
gd/ssd

MAT/1126/2023
IA NO: CAN/2/2024
SOMNATH RAY
VS
ADDITIONAL COMMISSIONER OF CENTRAL TAX,
CGST AND C.EX COMMISSIONERATE,
HOWRAH AND ORS.

Mr. Souradeep Majumder
..for the Applicant.

Mr. Tapan Bhanja
..for the State.

Re: CAN 2 of 2024

1. This application has been filed by the applicant to move the judgment and order dated 30th January, 2024 in MAT 1126 of 2023 by which the appeal was dismissed.

2. The learned advocate for the applicant submitted that his client is now willing to effect the pre-deposit and the court may permit the applicant to do so and pursue the statutory appellate remedy. It is also submitted by the learned advocate for the applicant that the applicant has a genuine apprehension that in the event of complying with the pre-deposit condition and filing an appeal, the appellate authority may reject the appeal on the ground of limitation.

3. Considering the peculiar facts and circumstances of this case and also the fact that the writ petition was filed on 13th February, 2023 and

disposed of on 18th May, 2023 and against which appeal was immediately preferred before the Division Bench on 11th April, 2023 in MAT 1126 of 2023 which was dismissed on 30th January, 2024, and as of now the applicant being ready and willing to effect the pre-deposit, this court is of the view that such liberty can be granted and the applicant can be permitted to pursue the statutory appellate remedy.

4. For the above reason, the application is disposed of by directing the applicant to comply with the pre-deposit condition within three weeks from the date of receipt of the server copy of this order and file the appeal before the statutory appellate authority. If the appeal is filed, the appellate authority shall not reject the appeal on the ground of limitation but dispose of the appeal on merits and in accordance with law after affording reasonable opportunity to the applicant.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)