12th August, 2024
(AK)
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W.P.A 15910 of 2024

Kamdhenus Sweets Private Limited
Vs.
Assistant Commissioner of State Tax, Baruipur Charge and others

Mr. Akshat Agarwal
Mr. Sanjib Goenka
...for the petitioner.

Mr. Anirban Ray
Md. T.M. Siddiqui
Ms. S. Shaw
Mr. N. Chatterjee
...for the State.

1. Leave is granted to the petitioner to correct the particulars in the cause title insofar as the respondent no.3 is concerned.
2. Challenging, *inter alia*, an order passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as 'the said Act') dated 4th August, 2023 for the tax period July 2017 to March 2018, an appeal was filed before the Appellate Authority under Section 107 of the said Act.
3. Simultaneously with the filing of the appeal, the petitioner had also made a pre-deposit as is required for maintaining the appeal.
4. The Appellate Authority, however, by its order dated 30th April, 2024 had dismissed the appeal on the ground of limitation.

5. The petitioner insists that without considering the application for condonation of delay, the appeal was dismissed in a mechanical manner. The petitioner prays for remand of the matter for re-adjudication on merits.

6. Mr. Siddiqui, learned Additional Government Pleader enters appearance on behalf of the respondents.

7. Heard the learned Advocates for the respective parties and have considered the materials on record. Although, I find the explanation given by the petitioner for condonation of delay in filing the belated appeal to be not satisfactory, but the manner in which the Appellate Authority had purported to reject the appeal on the ground of limitation cannot be accepted.

8. There appears to be no consideration of the petitioner's application for condonation of delay.

9. Be that as it may, for ends of justice, I am of the view that the petitioner is entitled to present his case on merits before the Appellate Authority, subject to payment of Rs.10,000/-, fifty per cent whereof to be paid to the State Legal Services Authority, West Bengal and fifty percent to the respondent authorities.

10. Subject to payment of the aforesaid amount within two weeks from date and on production of receipt of

payment, the Appellate Authority shall hear out and dispose of the said appeal on merits within a period of eight weeks from the date of filing of the receipt with the Appellate Authority

11. As a sequel thereto, the order passed by the Appellate Authority dated 30th April, 2024 is set aside.

12. With the aforesaid directions, the writ petition stands disposed of.

13. There shall be no order as to costs.

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

(Raja Basu Chowdhury, J.)