13.08.2024
Item No.
AD 7
Saswata

W.P.A. 18142 of 2024

Ramesh Kumar Agarwala
versus
The State of West Bengal & Ors.

Mr. Himangshu Kumar Ray
Mr. S. Podder
Mr. Paban Kumar Ray
Ms. Shiwani Shaw
Mr. Piyas Chowdhury
...For the petitioner
Mr. Anirban Ray, Ld. GP
Mr. Md. T.M.Siddiqui
Mr. T. Chakraborty
Mr. S. Shaw
Mr. N.Chatterjee
...For the State

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

2. The present writ petition has been filed, inter alia, challenging the order dated 14th June 2024 passed by the appellate authority under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "Said Act") as also the notice under Section 79(1)(c) of the said Act in Form GST DRC 13 dated 14th May 2024, whereby the petitioner's bank account has been attached.

3. Mr. Ray, learned advocate appearing for the petitioner submits that challenging the order passed under Section 73 of the said Act dated 12th December 2023, an appeal was filed by the petitioner under Section 107 of the said Act. Since, the appeal was filed belatedly, the same was accompanied by an explanation, explaining the delay. He submits that the petitioner had also enclosed the medical reports to substantiate that by reasons of serious kidney ailment of his wife, the appeal could not be filed in time.

According to Mr. Ray, the petitioner had also made the pre-deposit, as is required for maintaining the appeal under Section 107 of the said Act. The appellate authority, however, having found that the explanation for the delay to be not satisfactory, had rejected the appeal on the ground of limitation.

4. Mr. Ray, submits that the findings arrived at by the appellate authority is perverse and the same should be set aside and the matter may be remanded back for re-adjudication.

5. Mr. Ray, learned Government Pleader submits that admittedly there was a delay in preferring the appeal. Although, there is some explanation by the petitioner since, such explanation was not accepted by the appellate authority, the appeal was rejected. There is no irregularity in the order.

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

7. Admittedly, in this case it is noticed that the appeal was filed belatedly. The petitioner had, however, offered an explanation for the delay by submitting that his wife was suffering from serious kidney ailments which had prevented him from preferring the appeal within the prescribed time. In support of his contention, he had also relied on the

medical reports, concerning his wife's illness. Such reports have not been disputed.

8. Having regard to the aforesaid and taking note of the explanation given by the petitioner, I am of the view that the appellate authority had failed to exercise the discretion judiciously. From the explanation provided by the petitioner, I am of the view that the petitioner has been able to sufficiently explain the delay in preferring the appeal.

9. In view thereof, the order passed by the appellate authority dated 14th June 2024 is set aside and by condoning the delay the matter is remanded back to the appellate authority for a decision on merits.

10. The appellate authority, upon giving an opportunity of hearing to the petitioner, shall hear out and dispose of the appeal as expeditiously as possible, preferably within a period of 8 weeks from the date of communication of this order. As a sequel thereto, and having regard to the provisions of Section 107(7) of the said Act, the order of attachment dated 14th May 2024 issued in Form GST DRC 13 is quashed.

11. With the above observations and directions, the writ petition being WPA 18142 of 2024 is accordingly disposed of.

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

(*Raja Basu Chowdhury, J.*)