03.09.2024
Item No.1
gd/ssd

MAT/1413/2024
NTC INDUSTRIES LIMITED
VS
STATE TAX OFFICER KHARAGPUR ZONE BUREAU OF INVESTIGATION (SOUTH BENGAL) AND ORS.
IA NO: CAN/1/2024, CAN/2/2024

Mr. Rajarshi Chatterjee
..for the Appellant.

Md. T.M. Siddiqui,
Mr. T. Chakraborty,
Mr. S. Sanyal
..for the State.

Re: CAN 2 of 2024

1. CAN 2 of 2024 has been filed by the appellant seeking condonation of delay of 150 days in filing this appeal.

2. Learned counsel for the appellant has referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellant was prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 2 of 2024 is, accordingly, allowed. The delay in filing the appeal is condoned.

Re: MAT 1413 of 2024

5. This intra court appeal by the writ petitioner in WPA 28757 of 2023 is directed against an order dated 10th January, 2024 in and by which the learned writ court while granting an interim order imposed a condition on the appellant to make a further deposit of 20% of the balance disputed penalty.

6. It is not in dispute that at the time of filing the appeal before the appellate authority 25% of the disputed penalty has been deposited.

7. If that be so, the remaining amounts will not be recovered from the appellant and the order will be automatically stayed.

8. That apart, in the earlier round the court had granted an order directing the appellant to furnish a bank guarantee for the entire penalty amount and also a bond as a condition precedent for release of the goods. This condition has been complied with by the appellant and goods have been released.

9. Therefore, we are of the view that the direction for further deposit of 20% of the disputed penalty is not warranted.

10. Accordingly, the appeal is allowed. The order impugned dated 10th January, 2024 is set aside in respect of the condition directing the appellant to make further deposit of 20% of the balance disputed penalty.

11. The respondents are directed to file their affidavit-in-opposition within two weeks from date with liberty to the appellant/writ petitioner to file reply thereto within a week thereafter.

12. The appellant is at liberty to move before the learned writ court for early listing of the writ petition.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)