

04 02.04.2024
AN Ct. No. 01
RP

MAT 1658 of 2023
with
IA No. CAN 1 of 2023
CAN 2 of 2024
CAN 3 of 2024

Assistant Commissioner of CGST & CX Anti Evasion Bolpur
Commissionerate

Vs.

Aryavrata Steel Private Limited

Ms. Manasi Mukherjee

... For the Appellant

Mr. A. Agarwal

... For the Respondent

1. There is a delay of 10 days in filing the instant appeal. Sufficient grounds have been shown and we are satisfied with the reasons given for not preferring the appeal within the period of limitation. Hence, the application being CAN 2 of 2024 is allowed. Delay in filing the appeal is condoned.

2. We have heard learned counsel for all the parties elaborately.

3. This intra Court appeal filed by the Department is directed against the order dated 12.07.2023 passed in WPA 14982 of 2023. The said writ petition was filed by the respondent herein challenging the order dated 25.01.2023 dismissing the appeal filed by the respondent and confirming the order of the adjudicating authority imposing tax and penalty on account of expiry of the validity period of the e-way bill. The respondent/writ petitioner produced documents before the learned writ court explaining the reasons as to why the e-way bill had expired and, more particularly, that the period was just for three hours. The learned Single Judge considering that the period of expiry of e-way bill is very minor that is just only for

three hours and the reason for such expiry is supported with relevant documents, set aside the impugned orders in the writ petition and directed refund of the penalty and tax to the respondent/writ petitioner.

4. Aggrieved by the same, the Department has preferred the instant appeal.

5. Considering the peculiar facts and circumstances of the case, we are of the view that there can be no error attributed to the discretion exercised by the learned writ court, particularly, taking into consideration the factual position that the period of expiry of the e-way bill was only three hours and there were certain documents produced by the respondent/writ petitioner to explain the delay. Therefore, we are of the view that the order under challenge does not call for any interference.

6. In the result, the appeal filed by the Department stands **dismissed**. Consequently, the connected applications also stand **dismissed**. However, we make it clear that this order shall not be treated as a precedent and it has been passed considering the facts and circumstances of the case.

(T. S. Sivagnanam)
(Chief Justice)

(Hiranmay Bhattacharyya, J.)