Form No. J.(2)
Item No.3

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

HEARD ON: 03.12.2024

DELIVERED ON: 03.12.2024

CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

WP.TT No.42 of 2024
Besco Ltd.
Vs.
Senior Joint Commissioner of Sales Tax, Large Taxpayers Unit & Ors.

Appearance:-
Mr. Anirban Ray, Ld. G.P.
Md. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. D. Saha

..........For the State

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This writ petition has been filed by the assessee challenging an order passed by the learned West Bengal Taxation Tribunal, Kolkata dated 12th June, 2024 by which the application filed by the writ petitioner/assessee for condonation of delay of 227 days in filing the application was rejected.

2. After hearing the learned advocates for the State and carefully perusing the reasons assigned by the learned Tribunal, we find that the Tribunal cannot be faulted for having dismissed the application after taking note of the facts and circumstances of the case, more particularly that a certified copy of the revisional order was issued and was received by the learned advocate of the Foundry Division of the writ petitioner and therefore, the revisional authority stated that a second certified copy cannot be issued.

3. In the light of the same, under normal circumstances, we would have had no hesitation to dismiss the writ petition and uphold the order passed by the learned

Tribunal. However, considering the fact that the delay is of 227 days and cannot be stated to be inordinate and apart from the fact that the reasons, which were set out in the application for condonation of delay were not as found to be wholly false or palpably untrue, as the petitioner has stated that one, Mr. Raj Murari Poddar, who was the General Manager (Taxation) and used to handle all tax matters for the petitioner company passed away on 29th November, 2022 at the age of 72 years. The application before the learned Tribunal was filed on May 14, 2024. However, the company pleads certain difficulties, which led to the delay, more particularly that a new person was recruited to the post of General Manager (Taxation) on 1st January, 2024 and by that time, the limitation to file the application before the learned Tribunal had expired.

4. Thus, considering the peculiar facts and circumstances and taking note of the fact that the conduct of the writ petitioner cannot be stated to be wholly without any *bona fide*, we are inclined to exercise the discretion in the matter and condone the delay in filing the application before the learned Tribunal.

5. Accordingly, the writ petition is allowed and the delay in filing the application before the learned Tribunal is condoned and the learned Tribunal is requested to decide the matter on merits and in accordance with law.

6. No costs.

7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

Pallab/KS AR(Ct.)