02.01.2024
Item No.16
RP/KC
Ct. No.1

MAT 2138 OF 2023
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IA NO.CAN 1 of 2023

M/s. Haripada Samanta & Pramathonath Samanta
Vs.
State of West Bengal & Ors.

Mr. Madhu Jana
Mr. Golam Zaky
Mr. Rahul Agarwala
.....for the Appellant

Mr. T.M. Siddiqui
.....for the State

1. This intra-Court appeal is directed against the order dated 30.06.2023 passed in WPA 14470 of 2023 by which the writ petition filed by the appellant challenging an order passed by the Senior Joint Commissioner of Revenue, State Tax, Kolkata North Circle & 24 Parganas Circle was dismissed. By the said order dated 18.04.2023 the Appellate Authority rejected the appellant's appeal petition on the ground that it is time barred. We have perused the said order dated 18.04.2023 and we find that there is no error in the said order since the Appellate Authority cannot entertain the appeal beyond the time provided under Sub-Section 1 of Section 107 of the WBGST Act, 2017.
2. The learned advocate appearing for the appellant would plead that the appellant's wife had severe

medical complications and the appellant had to attend his wife. Apart from that the appellant had to take his wife to Vellore in the state of Tamil Nadu for treatment. Consequently, he was unable to present in Kolkata and as a result of which the appeal could not be filed within the period of limitation. It may be true that the period of limitation cannot be extended, however, considering the peculiar facts and circumstances of the case we find that it will be better for the Appellate Authority to take a decision on merits, more particularly, when the appellant had already effected the pre-deposit of 10% of the disputed tax.

3. For the above reasons, the appeal along with the connected application and the writ petition stand disposed of by setting aside the order passed by the Appellate Authority dated 18.04.2023 with a direction upon the Appellate Authority to entertain the appeal petition and afford an opportunity of personal hearing to the appellant or his authorized representative and take a decision on merit and in accordance with law. It is made clear that this order is passed after considering the peculiar facts and circumstances of the case and shall not be treated as precedence. The appellant is at liberty to seek for appropriate interim order from the Appellate Authority with regard to lifting of the attachment on

the appellant's bank account and if such an application is filed the Appellate Authority shall consider the same on merit.

4.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(SUPRATIM BHATTACHARYA, J.)