IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

15.05.2024
45
as

MAT 11 of 2024
with
CAN 1 of 2024
with
CAN 2 of 2024

M/s. Beekay Warehousing Company
Vs.
State of West Bengal & Anr.

Mr. Dhiraj Lakhotia,
Ms. Radhika Agarwal,
Ms. Meghna Joshi,
Ms. Khushi Kundu. …for the Appellant.

Mr. Subir Kr. Saha,
Mr. Dilip Kr. Agarwal. …for the State.

Re: CAN 2 of 2024.

1. Heard the learned Advocates for the parties.

2. Having considered the averments in the application for condonation of delay and being satisfied, delay in preferring the appeal is condoned.

3. Accordingly, the application being CAN 2 of 2024 is disposed of.

In Re: MAT 11 of 2024
with
CAN 1 of 2024

4. Learned Advocate for the appellant submits learned Judge failed to consider that the goods in question were exempted from tax and the respondent authority issuing the show cause

notice did not have jurisdiction to levy penalty on them.

5. Whether penalty raised upon the petitioner in the impugned show cause notice was lawful or not is a mixed question of fact and law which may be agitated by him before the appellate forum.

6. It is indisputable that the respondent No.2, Assistant Commissioner of Revenue (WBGST) had jurisdiction to issue the impugned show cause notice calling upon the appellant to respond to the penalty proposed against him.

7. Under such circumstances, we do not find any illegality in the order impugned.

8. In the event, the appellant resorts to the statutory appellate remedy within seven days from date, the period for which he was pursuing the writ petition and the appeal proceeding before this Court shall be deducted for the purpose of computation of the period of limitation.

9. With this observation, the appeal and connected application are disposed of.

(Ajay Kumar Gupta, J.) **(Joymalya Bagchi, J.)**