26.09.2024
Court No. 2
Sl. No.43
KB

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A 2086 of 2024

Yogendra Kumar Goel
-versus
Assistant Commissioner of Revenue, SGST, Siliguri Charge & Ors.

Mr. Boudhayan Bhattacharyya (VC)
Ms. Stuti Bansal
Ms. Keya Kundu
... For the petitioner.

Mr. Momenur Rahman
Mr. Pradip Sarkar
... For the State.

Kr. Ratan Banik
Mr. Bishwa Raj Agarwal
... For the Respondent Nos. 4 & 6.

The petitioner preferred an appeal against the order passed by the adjudicating authority but has been delayed by a couple of days. A date of hearing of the appeal was fixed by the Additional Commissioner, Sales Tax, West Bengal on 1st October, 2024. The notice of hearing dated 18th July, 2024 was served through electronic mail which the petitioner claims to have missed to notice in proper time. By the time the electronic mail came to the notice of the petitioner, the date of hearing was long over.

A request was made for granting a further opportunity of hearing. Such communication was made on 6th August, 2024. Without any response to the said request, the appeal of the petitioner stood dismissed on 12th September, 2024.

The petitioner submits that an opportunity of hearing ought to be given to the petitioner as he could not avail the opportunity that was granted.

The further submission is that the appeal was not heard on merits and only rejected on the ground of delay.

Prayer has been made to set aside the order passed by the appellate authority with a direction to hear the appeal on merits.

Learned advocate representing the respondents submits that the petitioner ought to have checked the electronic mail on regular basis and it was the fault of the petitioner in not attending the hearing on the scheduled date.

Learned advocate for the respondent has, however, brought to the notice of this Court the order dated 24th September, 2024 passed by this Bench in ***WPA 1940 of 2014 (Ravi Kumar Sahani Versus Senior Joint Commissioner of Revenue, State Tax, Siliguri Circle & Ors.)*** wherein, under similar circumstance, the Court permitted the petitioner to approach the appellate authority within a specified time and the authority was directed to consider the application filed by the petitioner for condoning the delay on merits.

Facts of this case being similar to that in the matter of *Ravi Kumar Sahani (supra)* similar order may be passed herein.

An application seeking condonation of delay has already been filed before the appellate authority.

The appellate authority is directed to consider the same and if it appears that there are sufficient grounds to condone the delay in preferring the appeal, then proceed to consider the appeal on merits.

An opportunity of hearing shall be given to the petitioner at the time of deciding the application for condoning the delay in preferring the appeal.

A decision shall be taken at the earliest but positively within a period of eight weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties upon compliance of usual legal formalities.

(Amrita Sinha, J.)