

27.09.2024
Court No. 2
Sl. No.10
AGM

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 2120 of 2024

**Anjali Sarkar Lakra
-versus
Assistant Commissioner, Cooch Behar & Ors.**

**Mrs. Matan Chakraborty.
...For the Petitioner.**

**Mr. Pradip Sarkar.
...For the State.**

The petitioner is aggrieved by the order passed by the appellate authority in rejecting the appeal filed by the petitioner on the ground of delay.

The adjudicating authority cancelled the registration of the petitioner on the ground of failure to furnish returns for a continuous period of six months.

Prayer has been made to direct the appellate authority to adjudicate the appeal on merits.

Reliance has been placed on the judgment dated 1st September, 2022 passed by the Hon'ble Division Bench of this Court in **MAT 1376 of 2022 with IA No. CAN 1 of 2022 (Bisweswar Midhya, Proprietor of Midhya Construction -vs- The Superintendent, CGST & CX Range V, Haldia II Division, Haldia CGST & CX Commissionerate & Ors)** wherein the Hon'ble Division Bench held that suspension of license of a dealer will be counter productive and would work against the interest

of the revenue. If the registration of a dealer is cancelled, the dealer cannot carry on its business which, in turn, would impact the recovery of taxes. The Department has to take a pragmatic view because a taxpayer is not to be treated as a person hostile to the department. If the taxpayer adopts dubious process to evade payment of tax, then he has to be dealt with firmly.

The petitioner intended to challenge the order of the adjudicating authority before the appellate forum but the same stood rejected on the ground of delay.

This Bench vide order dated 24th September, 2024 in WPA 1940 of 2024 in the matter of **Ravi Kumar Sahani -vs- Senior Joint Commissioner of Revenue, State Tax, Siliguri Circle & Ors.** directed the appellate authority to consider the application filed by the petitioner for condoning the delay on merits.

If the appellate authority is of the opinion that the delay may be condoned, then necessary order may be passed by the said authority and the appeal be heard and disposed of on merits.

The aforesaid order was passed by this Bench relying on the judgment delivered by the Hon'ble Division Bench on 1st December, 2023 in MAT 81 of 2022 with IA No. CAN 2 of 2022 with MAT 82 of 2022 with CAN IA No. CAN 2 of 2022 (**S. K. Chakraborty & Sons Vs. Union of India & Ors.**) wherein the Court held that the prescribed period under the Act of 2017 is not final and in given facts and circumstances of a case, the period for filing the appeal can be extended by the appellate authority.

In the same line the instant writ petition is disposed of by directing the appellate authority to consider the application filed by the petitioner seeking condonation of delay. If the delay is condoned, then the appellate authority shall proceed to decide the appeal on merits.

The impugned order of the appellate authority stands set aside.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)