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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 10454/2024 CM APPL. 43017/2024

M/S SHIVA IMPEX THROUGH KSHITIZ GUPTA .....Petitioner

Through: Mr. Harshit Batra and Ms. Himani, Advs.

versus

COMMISSIONER OF CENTRAL TAX APPEALS-I, DELHI .....Respondent

Through: Mr. Harpreet Singh, SSC alongwith Ms. Suhani Mathur, Mr. Jatin Kumar Gaur and Ms. Kirti Gupta, Advs.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **30.07.2024**

1. The petitioner has filed the present petition impugning an order dated 05.01.2024 passed by the appellate authority whereby the appeal preferred by the petitioner under Section 107 of the Central Goods and Services Tax Act, 2017 (hereafter *CGST Act*) was rejected as being barred by limitation.

2. The petitioner being aggrieved by the order in original dated 06.01.2023 passed by the Adjudicating Authority, filed an appeal before the Appellate Authority on 08.04.2023.

3. In terms of Section 107 of CGST Act, any person aggrieved by an order passed by the Adjudicating Authority can prefer an appeal within the prescribed period of three months from the date on which the decision is communicated to the said person. In the present case, the appeal was delayed. The Appellate Authority has found that the appeal was delayed by a period of three days as the time for filing the same expired on 05.04.2024.

4. Learned counsel for the petitioner disputes the same and contents that the delay was only of two days. The said controversy is insubstantial and therefore we do not propose to examine the same.

5. In terms of Section 107(4) of the CGST Act, the Appellate Authority can condone a delay not exceeding one month if it is satisfied that the appellant was prevented from sufficient cause from presenting the appeal within the stipulated period. In the present case, the appellant claims that he had become aware of the period of limitation after consulting his legal advisor and this was the reason for the delay.

6. Given that the period of delay is barely few days, the said explanation could not be rejected as being unsatisfactory.

7. In view of the above, the impugned order is set aside and the appeal is restored before the Appellate Authority for decision on the merits.

8. The present petition is allowed in the above terms.

9. Pending application is disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 30, 2024
AT