

M/L - 8
03.03.2025
Court. No. 5
S.Kundu

WPA 410 of 2025

Kanakdhara Infrastructure Private Limited
Vs.
Assistant Commissioner of Revenue, College Street
and Sealdah Charge & Ors.

Mr. Sandip Chorasias,
Mr. Akash Chakraborty

...for the petitioner.

Mr. A. Ray,
Md. T.M. Siddiqui,
Mr. T. Chakraborty,
Mr. D. Sahu
Mr. S. Sanyal

...for the State.

1. Challenging the order passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act) in Form DRC 08 dated 1st February, 2024 for the tax period April 2018 to March 2019 an appeal was filed under Section 107 of the said Act in Form GST APL 01 along with pre-deposit as is required for maintaining such appeal.
2. Admittedly, the appeal was filed beyond the prescribed period and there was a delay of eighteen days. According to the petitioner, although there was appropriate explanation for the delay, the Appellate Authority by an order passed in Form GST APL 02 dated 14th August, 2024 had rejected the appeal on the ground of limitation, *inter alia*, holding that there is no power vested with the Appellate Authority to accept the

appeal after four months from the date of communication of the order appealed against.

3. Having heard the learned advocates appearing for the respective parties and noting that the aforesaid observation made by the Appellate Authority is contrary to the judgment delivered by the Division Bench of this Court in the case of ***S.K. Chakraborty & Sons versus Union of India reported in 2023 SCC Online Calcutta 4759***, I am of the view that the aforesaid order cannot be sustained. The same is accordingly set aside.
4. Further taking note of the explanation given by the petitioner and noting that the petitioner had duly put in pre-deposit of Rs.1,42,752/- and also noting that the Appellate Tribunal under Section 109 of the said Act is yet to be constituted, I am of the view that the appeal should be remanded back to the Appellate Authority for a decision on merits.
5. With the above observations and directions, the writ petition stands disposed of.
6. There shall be no order as to costs.
7. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J.)