

M/L - 33
26/03/2025
Court. No. 5
S.Kundu

WPA 931 of 2025

Nandadulal Pal
Vs.
Assistant Commissioner, State Tax & Ors.

Mr. D. B. Thakur

...for the petitioner.

Mr. S. Sanyal

...for the respondents

1. Challenging the order dated 17th September, 2024 the instant writ petition has been filed whereby the appellate authority under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the “said Act”), had rejected the appeal on the ground of delay.
2. The petitioner’s case proceeds on the premise that an order under Section 73 of the said Act was passed on 5th March, 2024. Challenging the said order, the above appeal was filed along with the mandatory pre-deposit. There was a delay of 28 days in preferring the appeal and an application explaining the delay was also filed along with the appeal. However, the appellate authority without considering such explanation has purported to reject the appeal on the ground of delay.
3. Mr. Sanyal, learned advocate appears on behalf of the respondents.

4. Having heard the learned advocates appearing for the respective parties and noting that the petitioner has a statutory remedy in the form of an appeal before the appellate Tribunal which is yet to be constituted, the instant writ petition is taken up for consideration. I find that the petitioner has preferred an appeal from an order passed under Section 73 of the said Act. Since the appeal was filed belatedly the appellate authority has refused to entertain the appeal.
5. Considering the fact that the appellate Tribunal is not available and it would be far more convenient for the appellate authority to decide the appeal, than for this Court to embark upon an enquiry on facts, and also noting that the appeal was accompanied by the mandatory pre-deposit of Rs.80830/- as is required for maintaining the appeal, I am of the view that the matter should be remanded back to the appellate authority with a direction to hear out and dispose of the appeal. Thus, while setting aside the order dated 17th September, 2024, and on being satisfied with the explanation by condoning the delay, I remand the appeal back to the appellate authority for hearing out the same on merits. It is expected that the appellate authority shall hear out and dispose of the appeal as expeditiously as possible preferably within a period of two weeks from the date of communication of this order.

6. Accordingly, the writ petition stands disposed of.

(Raja Basu Chowdhury, J.)