14. **05.05.2025**
(M/L) **Court No.05.**

(Pritam)

WPA 2270 of 2025

Snehlata Sons.

-Vs.-

The State of West Bengal & Ors.

Mr. Avka Mazumder,
Mr. Suman Bhowmik,
Ms. Alisha Das,
Mr. Samrat Das,
Ms. Elina Dey,
Mr. S. N. Banerjee.
...for the petitioner.

Mr. Anirban Ray, Ld. G.P.,
Mr. Md. T. M. Siddiqui, Ld. A.G.P.,
Mr. Tanay Chakraborty,
Ms. Sumita Shaw,
Ms. Saptak Sanyal
....for the State.

1. Affidavit-of-service filed in Court today be taken on record.
2. The present writ petition has been filed, *inter alia*, challenging an Appellate Order dated December 30, 2024 under the provisions of Section 107 of the WBGST/CGST Act, 2017(hereinafter referred to as the "said Act") in respect of the tax period of July 2017 to March 2018.
3. Records would reveal that challenging a previous order dated April 9, 2024 passed by the Appellate Authority under Section 107 of the said Act, the petitioner had filed a writ petition being WPA 15204 of 2024. By an order

dated August 14, 2024, the aforesaid writ petition was disposed of by directing and observing as follows:-

> *"6. Heard the learned advocates appearing for the respective parties and considered the materials on record.*
>
> *7. Admittedly, in this case I find that since the petitioner could not make payment of the entire pre-deposit, the appeal had been dismissed. It is noticed that the petitioner cited financial stringency as the ground for non payment of the pre-deposit. Since the petitioner is now interested to make payment and having regard to the financial condition of the petitioner as noted above, I am of the view that justice would be subserved if a further opportunity is granted to the petitioner to make the pre-deposit.*
>
> *8. In view thereof, the petitioner is directed to deposit the balance pre-deposit with the respondents within a period of two weeks from date. In the event, the petitioner deposits the aforesaid amount within the aforesaid period, the appellate authority shall hear out and dispose of the appeal on merits in accordance with law. As a sequel thereto, the order passed by the appellate authority on 9th April 2024 stands set aside.*
>
> *9. It is made clear that if the petitioner does not make the aforesaid payment within the time prescribed as aforesaid, the benefit of this order shall not enure to the petitioner and the writ petition shall automatically stand dismissed.*
>
> *10. With the above observations and directions, the writ petition being WPA 15204 of 2024 is accordingly disposed of without any order as to costs."*

4. Mr. Majumder, learned advocate appearing for the petitioner would contend that the aforesaid order dated August 14, 2024 was uploaded on the website of this Hon'ble Court dated on August 19, 2024 and as such the petitioner could not have taken any steps on the basis of the aforesaid order until August 19, 2024. He would submit that the time to put in the pre-deposit had expired on August 28, 2024. However, if the period up to August 19, 2024 and the Saturdays and Sundays are

excluded, then there is a delay of only one day. He would submit that the petitioner had good intentions and had complied with the directions and had made the pre-deposit, though belatedly. The Appellate Authority had, however, rejected the appeal on the ground that the statutory pre-deposit had not been deposited within the time prescribed by this Hon'ble Court. He submits that the delay in payment of pre-deposit is condonable and as such the Appellate Authority ought to have heard the appeal on merits.

5. Mr. Siddiqui, learned senior advocate and Additional Government Pleader appearing on behalf of the respondents by drawing attention of this Court to paragraph 9 of the order dated August 14, 2024 would submit that this Court had made it clear that in the event the petitioner does not make payment within the time prescribed in the said order, the benefit of the order shall not enure to the petitioner. There is no fault on the part of the Appellate Authority in rejecting the appeal.

6. Having heard the learned advocates for the respective parties and noting that the petitioner though belatedly had complied with the aforesaid order and there appears to be a marginal delay and at the same time since the revenue cannot be made to suffer, I am of the view that in the event the petitioner deposits 1% of the balance amount of the tax in dispute in addition to the amount already deposited with the respondents within a period of

three weeks from date, the Appellate Authority shall hear out and dispose of the appeal in accordance with law. As a sequel thereto, the order dated December 30, 2024 passed by the Appellate Authority stands set aside. It is made clear that in the event the petitioner fails to deposit the aforesaid amount within the time prescribed, the order dated December 30, 2024 shall revive and the respondents shall be entitled to enforce the same in accordance with law.

7. With the aforesaid observation and direction, the instant writ petition being WPA 2270 of 2025 is disposed of without any order as to costs.

8. Urgent Photostat certified copy of this order may be supplied to the parties upon compliance of all formalities, if applied for.

(Raja Basu Chowdhury, J.)