

M/L 62
30.06.2025
sb
Ct 5

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4074 of 2025

M/s. Mistral & Anr.
Versus
Union of India & Ors.

Mr. Siddhartha Das Gupta
Mr. Souvik Guha
Mr. Gausul Alam
... For the petitioner.

Ms. Manasi Mukherjee
Mr. Bijitesh Mukherjee
... For the respondents.

1. Affidavit of service filed in Court today is taken on record.
2. Challenging the order dated 28th March, 2023, passed by the appellate authority under Section 107 of the CGST/WBGST Act, 2017 (hereinafter referred to as the “said Act”) dismissing the appeal on the ground of limitation, the instant writ petition has been filed.
3. Heard the learned advocates appearing for the respective parties and considered the materials on record.
4. Records would reveal that the order appealed against was dated 22nd June, 2022. The petitioners had preferred an appeal online on 23rd August, 2022 which is within the period of limitation. From the records it would transpire that the order appealed against was duly

uploaded on the portal. The petitioners in this case had filed certified copy of the order on 16th December, 2022. It appears that the appellate authority had proceeded to reject the appeal by treating that the date of filing of the certified copy of the order as the date of filing of the appeal. The records would further reveal that Rule 108(3) of the CGST/WBGST Rules, 2017 (hereinafter referred to as the said Rules) has since been substituted with effect from 26th December, 2022. It would appear from the substituted rule that the procedure for filing certified copy in respect of the decisions which are available on the common portal has since been dispensed with. Only in respect of the matter where orders are not uploaded on the common portal, the certified copies of such orders are to be filed. The procedure for certifying the copy of the order impugned in an appeal has also been simplified to a great extent to enable the appellant to submit self-certified copy of such decision.

5. Admittedly, the order impugned in the instant case, being the refund rejection order dated 22nd June, 2022 was available on the portal. Although, the provisions of Rule 108(3) of the said Rules has been substituted with effect from 26th December, 2022, however, having regard to the fact that the appeal was filed within the time though the certified copy thereof was submitted

belatedly in respect of an appeal where the order was already available on the common portal, I am of the view that the appeal should be construed to have been filed in time.

6. In view thereof, by condoning the delay, if any, I direct the appeal should be heard on merits.
7. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)