

30.07.2025
Sayandeep
Sl. No. 07
Ct. No. 05

WPA 3676 of 2025

Tinku Sardar
Vs.
State of West Bengal & ors.

Mr. Akash Dutta
Mr. Aditya Dutta

.... for the petitioner

Mr. Anirban Ray, Ld. GP
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
Mr. D. Sahu

.....for the State

1. The supplementary affidavit filed in Court today on behalf of the petitioner is taken on record.
2. Challenging the order dated 30th January, 2025 rejecting the appeal filed by the petitioner from an order dated 1st August, 2023 passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act), the instant writ petition has been filed.
3. Having heard learned advocates appearing for the respective parties and noting that the petitioner may have been prevented with sufficient cause for not filing the appeal within the prescribed period and also considering the fact that the petitioner had sought for condonation on medical grounds ordinarily the petitioner's case ought to have been considered without the proper officer medically examining the petitioner's health since he is not authorized to do so.

4. In the instance case, it appears that not only has the proper officer evaluated the USG report of the petitioner, he has also ascertained from such report that there is no abnormality. The above in my view is not only an irregular exercise of jurisdiction but is also an illegal act. The proper officer could not have independently evaluated the petitioner's medical condition, since, the appellate authority at best may be a proper officer within the meaning of the said Act and is not a medical practitioner for him, to have opined on the USG report.
5. Be that as it may, considering the fact that the petitioner has a right to prefer an appeal before the appellate tribunal and noting that the appellate tribunal is yet to be constituted and it would be far more convenient for the appellate authority to gain access to the record of the case which are available on the common portal, I am of the view that the matter should be remanded back to the appellate authority.
6. As a consequence thereto, the order dated 30th January, 2025 is set aside.
7. Delay in filing the appeal is condoned. The appellate authority has directed to hear out and decide the appeal on merit as expeditiously as possible preferably within a period of 12 weeks from the date of communication of this order upon giving opportunity of hearing to the petitioner.
8. The writ petition is thus, disposed of.

(Raja Basu Chowdhury, J.)