07.08.2025
Item No.
AD 2
Saswata

WPA 4628 of 2025

Annu Projects Limited (Formerly known as Annu Projects Pvt. Ltd.)
Versus
The Joint Commissioner of Commercial Taxes, Behala Circle & Ors.

Mr. Sanjay Dixit
Mr. Rajeev Agarwal
Ms. Suman Sahani

...For the petitioner

Mr. Saptak Sanyal
Mr. Debraj Sahu

...For the State

1. The present writ petition has been filed, inter alia, challenging the appellate order dated 9th December, 2024 passed by the Joint Commissioner of Revenue, Behala Circle.
2. Records would reveal that a proceeding had been initiated against the petitioner under Section 61 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") and the petitioner was duly notified with regard to the discrepancies. The petitioner by letter dated 19th October 2022 had responded in Form GST ASMT – 11. Since, the explanation forwarded by the petitioner was not found to be satisfactory, the authorities had issued a pre show cause notice in Form GST DRC – 01A dated 18th December, 2022 in respect of the tax period from July 2017 to March 2018. From the aforesaid it

would transpire that a total figure of Rs.5,45,54,675.50/- was found to be due from the petitioner. Subsequently, a show-cause notice dated 15th March 2023 was issued under Section 73 of the said Act in respect of the tax period July 2017 to March 2018. The petitioner had duly responded to the said notice vide response dated 12th May, 2023, in which the petitioner had enclosed the payments made in form GST DRC – 03 also dated 12th May 2023.

3. Records would reveal that the adjudicating authority being the proper office had since adjudicated the cause, and by a detailed order after taking note of the response filed by the petitioner had determined that a sum of Rs.11,21,41,365.03/- was due and payable by the petitioner on account of tax inclusive of interest and penalty, of which the tax component works out to Rs.5,30,04,719.41/-. Notwithstanding the aforesaid order, the petitioner did not prefer any appeal within the time specified. After a delay of about 391 days, an appeal was filed on 9th September 2024 along with the pre-deposit of Rs.53,00,473/-.

4. Records would reveal that the appellate authority found that the appeal was filed belatedly and in such circumstances, had issued

a show cause notice which was sent to the petitioner via e-mail on 4th October, 2024. The petitioner was required to respond to the show cause within 21st October, 2024. The petitioner chose not to appear on the returnable date nor any response to the show cause was filed. Subsequently, the appeal under Section 107 of the said Act came to be rejected by an order dated 9th December, 2024. Although, the appeal was rejected on 9th December, 2024, it took more than two months time for the petitioner to approach this Court. The instant writ petition has been affirmed on 24th February, 2025 and in the presentation form the date for listing of the matter has been placed as 10th March, 2025.

5. In course of hearing Mr. Dikshit, learned advocate appearing for the petitioner would submit that the petitioner was not granted opportunity of a personal representation and as such, the order should be set aside and the matter should be remanded back. In an answer to a query of this Court, Mr. Dikshit candidly submits that the issue of the petitioner not being afforded with an opportunity of personal hearing was not raised in the appeal. I find that that there is a huge outstanding and the petitioner had successfully delayed in making payment of

such outstanding. The delay in filing the appeal was also never explained by the petitioner. This Court had offered an opportunity to the petitioner to ascertain as to whether the petitioner was ready and willing to provide for a security of Rs.1 crore, Mr. Dikshit, however, could not provide any response.

6. Taking an overall view of the matter, I find that the petitioner, himself, having successfully delayed in filing the appeal and having not paid the demand, is not entitled to any order without the petitioner at least securing a part of the demand, notwithstanding the statutory infraction as noted above.

7. In view of the above, in the event the petitioner makes payment of the balance amount after giving credit to the amount of pre-deposit, so as to provide for a security of Rs.1 crore, with the respondents within a period of four weeks from date, the appellate authority shall hear out and dispose of the appeal on merits. The above direction is being issued on the premise that though the petitioner had not raised the issue of non-compliance of Section 75(4) of the said Act in the appeal, however, the petitioner ought to be given an opportunity to be heard especially when the determination was made without

following statutory provisions as regards providing the petitioner an opportunity of hearing, provided appropriate security in this regard is made.

8. With the above direction and observation, the writ petition is disposed of.

9. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)