01.09.2025
Item No
AD 17

Saswata

WPA 5153 of 2025
M/s Icon Hotels Private Limited & Anr.
versus
State of West Bengal & Ors.

Mr. Nilotpal Chowdhury
Mr. T.K.Mitra

…For the petitioners

Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
Mr. Debraj Sahu

…For the State

1. Affidavit of service filed in Court today is retained with the record.

2. Challenging the order dated 8th July 2024 passed under Section 74 of the WBGST /CGST Act, 2017 (hereinafter referred to as the "said Act") for the tax period April 2022-March 2023, an appeal was filed along with pre deposit as is required for maintaining such appeal. Records reveal that there was a marginal delay in preferring the appeal and the appeal was rejected on the ground of delay by order dated 27th January 2025.

3. The representative of the petitioners claims to be suffering from Neurological disorder and had disclosed a discharge summary before the appellate authority. The appellate authority appears to have rejected such document by claiming that the illness does not seem to be serious to prevent the petitioner from filing the appeal.

4. Having heard the learned advocates appearing for the respective parties, it is not understood as to how the appellate authority could decide on the seriousness of the illness of the petitioners' representative. At least from the designation disclosed, it does not appear that the appellate authority was competent to voice any opinion as regards the health of the petitioners or its representative.

5. Be that as it may, noting the peculiar facts, inter alia, including that the factum of the illness of the petitioners' representative having not been disputed by the respondents, I am of the view that the petitioners should have been afforded with an

opportunity to have the appeal heard out on merits. Accordingly, while condoning the delay, I direct the appeal to be heard.

6. Mr. Chowdhury, learned advocate appearing for the petitioner, however, would submit that during pendency of the writ petition a sum of Rs.12,00,000/- has been recovered from the petitioners' Electronic Credit Ledger against the demand arising out of the order dated 8th July 2024 passed under Section 74 of the said Act.

7. Noting the objection raised by Mr. Chakraborty, learned advocate appearing for the State, I am of the view that in the event the aforesaid deduction or any part or portion thereof has been made from the petitioners' Electronic Credit Ledger pursuant to the order dated 8th July 2024 for the tax period April 2022 to March 2023, the amount which has been recovered should be re-credited to the petitioners' Electronic Credit Ledger within 5 working days from the date of communication of this order before the appeal is taken up for consideration.

8. Further, since, the appeal has been restored, the attachment of the petitioner no.1's bank account vide communication dated 19th November 2024 concerning the demand for the period from 1st April 2022 to 31st March 2023 also cannot be permitted to continue and the same is accordingly quashed.

9. With the above direction, the writ petition is disposed of.

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

(Raja Basu Chowdhury, J.)