

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Ct.551 **10.11.25**

Item No.07 Sws.M

WPA 10826 of 2025

**National Printing Works & Anr.
Vs
The Additional Commissioner, State Tax & Ors.**

Mr. Sourabh Bagaria
Mr. Indranil Banerjee
Mr. Subrata Mukherjee
Ms. Samrita Das

...for the petitioners

Mr. Tanoy Chakraborty
Mr. Saptak Sanyal

....for the State

1. Affidavit of service filed in Court today is taken on record.
2. The petitioners assail an order dated March 29, 2025 passed by the Appellate Authority under Section 107 of the WBGST Act, 2017 whereby the petitioners' appeal challenging an order dated March 29, 2024 passed under Section 73 of the said Act was dismissed on the ground that the appeal was delayed by six months.
3. From the material available on record it appears that the petitioners sought to explain the delay occasioned in preferring the appeal by demonstrating that the petitioners' consultant was seriously indisposed. In support of such contention the petitioners have also relied on a medical certificate

issued by a qualified Psychiatrist (at page 117 of the writ petition).

4. The appellate authority has disbelieved the petitioners' explanation by observing as follows:

“B. As claimed by the appellant, all their taxation affairs are dealt by Shri Gupta. It was also argued by the A/Rs at the stage of hearing – which was recorded by me in their presence – that even user ID. and password of the appellant for GST related matters are kept/maintained by Shri Gupta. But the footprints at the GST portal and submission of returns by the appellant in regular manner during the declared phase of illness of Shri Gupta simply shows that the appellant was not solely dependent on him for their tax/GST related matters. As became evident, the appellant had only cited the illness of Shri Gupta as a shield to cover up their delay in submitting appeal application and to make out a route for mercy.

C. In this context, I want to refer and rely upon the order passed by the Hon'ble Division Bench, Circuit Bench at Jalpaiguri of Calcutta High Court, dated 01.12.2023, in the matter S.K. Chakraborty & Sons vs. Union of India &Ors. – as was referred by the appellant – where the Court instructed the appellate authority to consider and decide the application for condonation of delay filed by the appellant on merit. Here, in this case, without any ambiguity, I want to note that the appellant failed to cater anything solid substantiating the delay of six months in submitting the appeal application. There was

no 'sufficient cause' in favour of the appellant for condonation of the delay."

5. Mr. Bagaria, learned advocate appearing for the petitioners submits that the appellate authority has gone wrong in holding that the petitioners' appeal was delayed by six months inasmuch as the appeal was filed after six months from the date of communication of the order and in such case the delay could at best have been of only 93 days. It is submitted that the appeal would have been within time had the same been filed within three months from the date of communication of the order and therefore, the period of three months which was statutorily available to the petitioners for filing the appeal could not have been counted as period of delay.
6. It is submitted that delay of 93 days, in preferring the appeal is marginal in nature and ought to have been condoned. Mr. Bagaria submits that although the authority might have found '*footprints at the GST portal*' in respect of submission of returns by the appellant in regular manner during the period when the petitioners' consultant was ill, yet, that by itself would not prove that the petitioners had not handed over the documents and material to their consultant for preparing and filing the appeal.
7. The explanation proffered by the petitioners appears to be reasonable and plausible. It is may be possible

that notwithstanding carrying on of regular business transaction and uploading routine forms and returns certain critical matters like filing appeal are left to experts. Taking a practical view of the matter, given the facts of the present case, it does not appear that the petitioners were grossly negligent or that the delay occasioned in filing the appeal was due to deliberate laches on the part of the petitioners. In such view of the matter, the delay of 93 days occasioned in preferring the appeal before the appellate authority is condoned.

8. The appellate order dated March 29, 2025 impugned in the writ petition is set aside and the matter is remanded to the file of the Appellate Authority for hearing the appeal on merits.
9. **WPA 10826 of 2025** stands **disposed of** on the above terms. No costs.
10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

(Om Narayan Rai , J.)