IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Ct.551 **16.12.25**

Item No.11 Sws.M

WPA 12113 of 2025

RSSG-OT (JV) and Anr.
Vs
Union of India & Ors.

Mr. Rahul Tangui
Ms. Taniya Roy
...for the petitioner

Mr. Kaushik Dey
Ms. Ekta Sinha
....for the respondents-CGST Authorities

Mr. Soumen Bhattacharjee
Mr. Ankan Das
Ms. Shradhya Ghosh
...for the Union of India
Mr. Nilotpal Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...for the State

1. This writ petition takes exception to an adjudication order dated August 27, 2024 passed by the proper officer under Section 73 of the WBGST Act, 2017 / CGST Act, 2017 (hereafter 'the said Act of 2017').

2. Learned advocate appearing for the petitioners submits that although the order impugned is appealable in nature, the petitioners could not prefer appeal in time inasmuch as the authorized signatory of the petitioner no. 1 was seriously unwell and the business of the petitioner no. 1 also got closed much prior to the time when the notice to show-cause was issued.

3. It is further submitted that the petitioners' authorized signatory remained under treatment from July 25, 2023 to April 29, 2025 and as such the petitioners could neither file appeal before the appellate authority nor approach this Court earlier.
4. It is submitted that the petitioners have good case on merits inasmuch as there are documents which would show that there is no tax due and payable by the petitioners in respect of the relevant financial year and if such documents are produced, the respondent GST authorities would definitely be satisfied as regards the petitioners' case.
5. Heard learned advocates appearing for the respective parties and considered the material on record.
6. It is evident that the petitioners have not been able to participate in the adjudication proceedings and has not filed any reply to the notice to show-cause by reason whereof the said proceedings were conducted and concluded *ex parte*. If the petitioners are not given one opportunity to challenge the adjudication order before the appellate authority, the petitioners would be losing one important forum of appeal.
7. In such view of the matter, this Court is of the view that the petitioners should be afforded a chance to contest the validity of the adjudication order impugned herein. However, since explanation

furnished by the petitioners is not fully satisfactory, this Court is of the view that the petitioners should be put on terms. Accordingly, it is directed that if the petitioners pay costs to the tune of Rs.20,000/- to the State Legal Services Authority within four weeks from date and file appeal before the appellate authority within the same period of four weeks from date upon furnishing proof of such payment of costs to the appellate authority then the petitioners' appeal shall be entertained by the appellate authority.

8. It is however clarified that the petitioners shall remain obliged to comply with the statutory formality of pre deposit in terms of Section 107(6) of the said Act of 2017 while preferring the appeal. If such appeal is filed upon payment of costs as aforesaid and upon making the statutory pre deposit, the appeal shall be heard by the appellate authority on merits and decided in accordance with law without raising any objection as regards delay in filing the appeal.

9. Needless to mention that this Court has not gone into the merits of the petitioners' case and all points are left open to be decided by the appellate authority in accordance with law.

10. WPA 12113 of 2025 stands disposed of on the above terms.

11. 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.)