

Item No.16
16.07.2025
Court. No. 5
GB

W.P.A. 13982 of 2025

Nanda Kishor Saha @ Nand Kishore Saha
Vs.
The Union of India & Ors.

Mr. Himangshu Kumar Roy,
Ms. Shivani Shaw,
Mr. A. Roy,
Mr. Gourav Chakraborty

...for the Petitioner.

Mr. Tapan Bhanja

...for the CGST.

1. Affidavit-of-service filed in Court is taken on record.
2. Although none appears on behalf of the respondents, since Mr. Bhanja, learned advocate who usually appears on behalf of the CGST authorities is present in Court, he is directed to appear in the aforesaid matter. Let his appointment be regularized.
3. Challenging an order dated December 14, 2023 passed under Section 73(9) of the WBGST/CGST Act, 2017 (hereinafter referred to as the 'said Act') for the tax period July 2017 to March 2018, an appeal was filed under Section 107 of the said Act. The appeal was however rejected on the ground of limitation.
4. Mr. Roy, learned advocate appears in support of the writ petition. He would submit that although, the petitioner had responded to the show cause and had filed a response on October 13, 2023 to the same, since the response was beyond the time provided for in the show-cause notice the same was not considered by the proper officer while disposing of the proceeding

by passing an order dated December 14, 2023. Being aggrieved the petitioner has filed an appeal.

5. In the process as aforesaid, there was a delay of 128 days in preferring the appeal. Although, Mr. Roy would submit that the petitioner had afforded an explanation, however, without appropriately considering such explanation the appeal had been rejected.
6. Considered the submissions made by Mr. Bhanja, learned advocate for the respondents.
7. Having heard the learned advocates appearing for the respective parties, I find that the petitioner is primarily aggrieved with regard to the non-consideration of his response to the show cause by the proper officer while passing the order dated December 14, 2023 under Section 73(9) of the said Act.
8. I find that though the response filed by the petitioner to the show-cause was beyond the time provided for in the show-cause, the same was prior to the disposal of the proceedings.
9. Having regard to the above, I am of the view that the petitioner's response ought to have been considered by the proper officer since the same was filed prior to the disposal of the proceedings. In view thereof, while setting aside the order passed by the proper officer dated December 14, 2023 and the order passed by the appellate authority on May 25, 2025, I remand the

matter back to the proper officer for re-adjudication on merits.

10. It is expected that the proper officer shall hear out and dispose of the proceeding upon giving opportunity of hearing to the petitioner of being heard and shall decide the proceeding in accordance with law. As a sequel thereto, the consequential demand raised by the respondents in form DRC-7 dated December 19, 2023 and APL 04 dated May 22, 2025/ June 3, 2025⁴ stands quashed.
11. Accordingly, the instant writ petition being WPA 13982 of 2025 is disposed of.

(Raja Basu Chowdhury, J.)