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Ct.5.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 13976 of 2025

Mohammad Hasim Khan
Versus
The State of West Bengal & Ors.

Mr. Himangshu Kumar Ray
Ms. Shiwani Shaw
Mr. Animitra Roy
Mr. Gourav Chakraborty
Mr. Anish Mondal
... For the petitioner

Md. T. M. Siddiqui, Ld.AGP
Mr. Nilotpal Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
... For the State.

1. Affidavit of service filed in Court today is taken on record.
2. Challenging the order dated 29th May, 2025 passed by the appellate authority under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the “said Act”), arising out of an order dated 4th August, 2023 passed under Section 73(9) of the said Act, for the tax period 1st July, 2017 to 31st March, 2018, rejecting the petitioner’s appeal on the ground of limitation, the instant writ petition has been filed.
3. Mr. Ray, learned advocate appearing in support of the writ petition has attempted to make out a case that since, the notices identifying discrepancies under Section

61 of the said Act in Form GST ASMT -10, pre-show cause notice in Form GST DRC-01A and the show cause notice in Form GST DRC 01 had been uploaded on the common portal under the head “Additional Notices and Orders”, the petitioner being unaware, could not appropriately represent the case which resulted in passing an *ex parte* adjudication order. He would submit that immediately upon acquiring knowledge as regards the adjudication order, an appeal was filed on 29th March, 2025 along with the pre-deposit as is required for maintaining the appeal. Unfortunately for the petitioner in the process as aforesaid there had been delay. Mr. Ray, would submit although an explanation was provided by the petitioner, the appellate authority had refused to accept the same and consequentially rejected the appeal. He would submit that the petitioner, in fact, at present has been rendered remediless by reasons of the Appellate Tribunal not being constituted and, as such, he seeks for interference of this Court.

4. Mr. Chakraborty, learned advocate appears on behalf of the respondents. According to him, the petitioner was well-aware of the proceedings. The petitioner had also responded to the pre-show cause notice. If the petitioner has chosen to stay away, the respondents cannot be held responsible therefor. The appellate authority had rightly rejected the appeal in absence of any cogent explanation.

5. Having heard the learned advocates appearing for the respective parties, I find that in the instant case, an adjudication order has been passed upon the petitioner being served with the requisite notices, though the petitioner claims to have overlooked the notices by reasons of such notices being uploaded on the common portal under the heading “Additional Notices and Orders”. However, having regard to the fact that the petitioner had responded to the pre-show cause notice, I am not inclined to accept such explanation provided by the petitioner.

6. Be that as it may, taking into consideration the fact that the provisions of the said Act provides for multi-tire adjudicating process and the petitioner by reasons of the Appellate Tribunal not being constituted is unable to maintain its challenge before the statutory authority, ordinarily, this Court would be required to hear out the matter on merits. In this context, I may note that all records of the proceedings are available on the common portal and it is far more convenient for the appellate authority to access such records from the common portal. On the contrary, for this Court to determine the cause the entire records would be required to be downloaded and placed before this Court.

7. Having regard thereto, though the explanation provided for by the petitioner is not entirely sufficient, however, for the ends of justice, I remand the matter back to the appellate authority for a decision on merits, by condoning the delay, subject to the petitioner making

payment of a sum of Rs.5000/- with the Calcutta High Court Legal Services Committee. The consequential demand, if any, in form ALP-04 shall stand quash.

8. In the event, the aforesaid amount is paid within a period of two weeks from date, the appellate authority upon being satisfied with regard to such payment on the basis of the disclosure of money receipt shall hear out and dispose of the appeal on merits. Upon failure on the part of the petitioner to comply with the above direction the above order shall not enure to the benefit of the petitioner and the respondents shall be at liberty to enforce their **demand**.

9. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)