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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 14225 of 2025

Bachhe Lal Metal Industries & Ors.
Versus
Assistant Commissioner of State Tax, Ultadanga, Cossipore and Belgachia Charge & Ors.

Mr. Parikshit Karmakar
... For the petitioners.

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

1. Challenging the order dated 29th April, 2025 passed by the appellate authority under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act"), rejecting the petitioners' appeal on the ground of limitation, the instant writ petition has been filed.

2. Having heard the learned advocates appearing for the respective parties, I find that a proceeding has been initiated for recovery of short paid tax under Section 73 of the said Act in respect of the financial year 2019-20. Records would reveal that the said proceeding was disposed of by an ex parte order dated 4th July, 2024. The petitioners had thereafter preferred an appeal. Admittedly, such appeal was filed beyond the prescribed period.

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3. Learned advocate representing the petitioners would submit that the petitioners provided cogent reasons for condonation of delay. Unfortunately, the appellate authority without appropriately considering the same had rejected the appeal on the ground of limitation. I find from the explanation provided by the petitioners that the petitioners were finding it difficult at the relevant point of time to access the portal. However, it would transpire from the records that the petitioner no.1 during the relevant point of time did actually file the returns. Having regard thereto, the explanation provided by the petitioners does not appear to be sufficient.

4. Be that as it may, taking into consideration the fact that the statute has provided for a further appellate remedy in the form of an appeal before the Appellate Tribunal which the petitioners by reasons of non-constitution of such Tribunal, have not been able to avail, and as such for this Hon'ble Court to decide the aforesaid cause on merits, records would require to be called for. Ordinarily, all records of the proceedings are available on the common portal and it is far more convenient for the appellate authority to access the same from the portal.

5. Having regard thereto, and noting the peculiar facts as noted above, I am inclined to remand the matter back to the appellate authority for a decision on merits, subject to the petitioners making payment of a sum of

Rs.5000/- with the Calcutta High Court Legal Services Committee.

6. In the event, the aforesaid amount is paid within a period of four weeks from date, the appellate authority upon being satisfied with regard to such payment, on the basis of the money receipt to be disclosed by the petitioners, shall hear out and dispose of the appeal in accordance with law.

7. As a sequel thereto, the order passed by the appellate authority on 29th April, 2025 stands set aside.

8. 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.)