Court No. 19
(266321)

02.12.2025
(AD 5)

(S. Banerjee)

RVW 223 of 2025

Takkra Engineering Enterprise @ M S Takkra Eng. Enterprise & Anr.
Vs.
The Commissioner of State Tax, Government of West Bengal & Ors.

Mr. Shibaji Kumar Das
…for the petitioners

Mr. Swapan Kumar Dutta, Ld. GP
Mr. Tanoy Chakrabarty
Mr. Saptak Sanyal
…for the State

Re: CAN 1 of 2025

This is an application for condonation of delay of 435 days in preferring the instant application for review.

Though the grounds taken in the application for condonation of delay are not fully satisfactory, but considering the fact that in the meantime the petitioner moved writ petitions and also approached before various authorities, we are inclined to exercise discretion in favour of the review applicant and condone the delay in preferring the said application.

For such reason the delay in filing the review application is condoned.

CAN 1 of 2025 stands allowed.

Re: RVW 223 of 2025

The review application is taken up for immediate consideration.

Learned advocate appearing for the petitioner submits that the jurisdiction of the adjudicating authority was under challenge in the appeal but the judgement under review did not consider such issue. He further submits that after the judgment and order under review was passed, the petitioner approached the adjudicating authority and raised the issue of jurisdiction and the adjudicating authority decided such issue against the petitioner. The petitioner filed a writ petition challenging such order which was dismissed as withdrawn.

After going through the order under review this court finds that the order of adjudication dated November 23, 2023 was set aside and the matter was remanded to the adjudicating authority for a fresh consideration as it was found that the mandatory requirement of affording a personal hearing was not afforded. On such ground the order of adjudication was set aside and the writ petition and the appeal were allowed. No point of jurisdiction of the adjudicating authority was raised in the said appeal. The review applicant by changing the Advocates has sought to urge a new point by filing a review application which was not raised at the time of hearing of the appeal.

Filing of review application by a new Advocate has been strongly deprecated by the Hon'ble Supreme Court in the case of *Tamil Nadu Electricity Board Vs. Raju Reddiar*, reported in (1997) 9 SCC 736: AIR 1997 SC 1005.

That apart, the review applicant has sought to reargue the appeal afresh on merits, which is not permissible as it is well settled that review is not an appeal in disguise.

For all the reasons as aforesaid, the review application stands dismissed.

There shall be no order as to costs.

Consequently CAN 2 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)

(Om Narayan Rai, J.)