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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16726 of 2025

Star Light House & Anr.
Versus
The Commissioner West Bengal
Goods and Services Tax & Ors.

Mr. Palash Majumder
Mr. Siddhartha Das Gupta
Mr. Souvik Guha
... For the petitioners.

Mr. A. Roy, Ld. GP
Mr. S. Ganguly
Mr. Tanoy Charkaborty
Mr. Saptak Sanyal
... For the State.

1. Affidavit of service filed in Court is taken on record.

2. Challenging the order dated 9th June, 2025, rejecting the appeal under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") on the ground of delay of 56 days, the instant writ petition has been filed.

3. Records would reveal that being aggrieved by the order passed under Section 73 of the said Act dated 29th July, 2024 for the tax period 2019-20 an appeal had been filed. The petitioners contend that since the mother of one of the partners of the petitioner no.1, Mir Kamal Hossain who was looking after the taxation matter, had been terminally ill and was suffering from cancer and eventually died on 15th December, 2024, as such the said

partner could not keep track, which resulted in delayed filing of the appeal.

4. Having heard the learned advocates appearing for the respective parties I find that the appellate authority had mechanically rejected the appeal without appropriately considering the aforesaid explanation. It is unfortunate that despite the fact that the appellate authority had taken note of the above and the medical condition of the petitioners' partner such explanation was not found to be sufficient, since, the petitioners had complied with the statutory provision of filing the return and the delay was only regarding filing of appeal. In my view, the petitioners cannot be penalized for filing the return. It is true that a discretion is vested in the appellate authority, however, such discretion must be exercised judiciously. In the instant case, the above does not appear to be judicious exercise of discretion by the appellate authority. The order passed by the appellate authority cannot be sustained and the same is accordingly set aside and the matter is remanded back to the appellate authority.

5. Further since, no useful purpose will be served by directing the appellate authority to reconsider the issue of condoning the delay and noting that the petitioner has been able to make out sufficient cause for the delay, while condoning the delay, the matter is remanded back. The appellate authority shall hear out and dispose of the appeal on merits as expeditiously as possible, preferably

within a period of twelve weeks from the date of communication of this order.

6. Further noting that the petitioners have already made a pre-deposited for a sum of Rs.1,26,832/- I am of the view that the order of attachment issued in From GST DRC 13 cannot be sustained which appears to be in relation to enforcement of the demand in Form GST DRC 07 dated 29th July, 2024, for the tax period 2019-20. The same is accordingly quashed.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)