04.11.2025
DL-05.
Ct. No. 551
Srimanta

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20165 of 2025

Lata Keshari
-Vs.-
Union of India & Ors.

Mr. Arup Dasgupta,
Mr. B. Sengupta
…for the petitioner.

Mr. Vipul Kundalia,Sr. Adv,
Mr. Tapan Bhanja
…for the respondents.

This writ petition throws challenge to an order dated July 28, 2025 passed by the Appellate Authority under Section 107 of the CGST/SGST Act, 2017 whereby the petitioner's appeal against an adjudication order dated September 9, 2024 has been rejected on the ground of the same being 'time barred'. The petitioner lodged the appeal before the Appellate Authority on March 24, 2025 with delay of 105 days.

The Appellate Authority has dismissed the appeal with the following observations:-

"*I would now like to refer to the directions contained in Sections 107(1) and 107(4) of the CGST Act, 2017 as detailed below.*

Section 107. Appeals to Appellate Authority.-

(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person;

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

In view of the express directions and conditions contained in Sections 107(1) and 107(4) of the CGST Act, 2017, I am constrained by the limitation clause as discussed in para (C) above (for the submission of appeal petition is delayed by nearly six (06) months) to proceed any further as the instant appeal petition is time-barred under existing provisions made under CGST Act, 2017. On the above terms, I find *that the Appeal is liable to be disallowed being improper in view of violation of provisions in terms of Section 107 (1) & (4) CGST Act, 2017."*

The Learned Advocate appearing for the petitioner relies on a Coordinate Bench Judgment of this Court in the case of ***Dola Bharati –Vs.- State of West Bengal & Ors. (WPA/21713/2024)*** decided on November 14, 2024 whereby the Coordinate Bench placing reliance on a Judgment of the Hon'ble Division Bench of this Court in the case of ***S. K. Chakraborty & Ors. –Vs. Union of India*** reported at ***(2024) 159 taxmann.com 259 (Calcutta)*** directed the Appellate Authority to consider and decide the application for condonation of delay filed by the petitioner before it on merits.

In the case at hand, the delay occasioned by the petitioner has been sought to be explained by the petitioner in paragraph 15 of the appeal (page 48 of the writ petition) filed by the petitioner before the Appellate Authority.

The order passed by the Appellate Authority does not evince that the explanation given by the petitioner has been considered at all as would be evident from the extract of the impugned order reproduced in the preceding part of this order. In view of the judgment of the Division Bench of this Court in the case of ***S.K. Chakraborty*** (supra) wherein it has been held that provisions of Section 5 of the Limitation Act, 1963 would be applicable to appellate proceedings under Section 107 of the said Act of 2017, the appellate authority ought to have considered the explanation preferred by the petitioner.

In such view of the matter, the order impugned dated July 28, 2025 is set aside and the matter is remanded to the file of the Appellate Authority. The Appellate Authority shall consider the petitioner's prayer for condonation of delay in the light of the observations made by the Hon'ble Division Bench in the case of ***S. K. Chakraborty*** (Supra) as also the Coordinate Bench in the case of ***Dola Bharati*** (Supra). If the Appellate Authority is satisfied with the causes shown by the petitioner the Appellate Authority shall condone the delay in preferring the appeal and shall proceed to hear the appeal on merits. It is clarified that this Court has not expressed any opinion on the sufficiency of the causes shown for condonation of delay.

WPA/20165/2025 is disposed of with the above observations.

(Om Narayan Rai, J.)