04.11.2025
DL-11.
Ct. No. 551
Srimanta

In the High Court at Calcutta
Constitutional Writ Jurisdiction
<u>Appellate Side</u>

WPA 20172 of 2025

Satyajit Ghosal
-Vs.-
The State of West Bengal & Ors.

Mr. Rajarshi Chatterjee
…for the petitioners.
Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal
…for the State.

This writ petition is directed against an order dated July 31, 2025 passed by the Appellate Authority under Section 107(1) of the WBGST/CGST, 2017 whereby the petitioner's appeal against an adjudication order dated August 6, 2024 has been dismissed on the ground that the appeal was delayed by more than four months from the date of communication of the order. The Appellate Authority was not satisfied with the explanation given for the delay occasioned in preferring the appeal and therefore dismissed the appeal by the order impugned.

The petitioner has explained the delay in preferring the appeal before the Appellate Authority in the following manner :-

"Based on the facts and circumstances of the case, the Learned Assistant Commissioner sent intimation and the show cause notice was posted in the "View Additional Notices" tab on the common GST Portal. Since such documents earlier uploaded on the 'View Notices' tab on the portal, it is stated that appellant is unaware of the proceedings and did not receive any intimation or show cause notice on the registered email ID. The ex-parte order was passed which goes against the principle of natural justice. I refer the case M/s. East Coast Constructions and Industries Limited –Vs.- Assistant Commissioner (ST) W. P. No. 26457 of 2023.

The Appellate Authority has not accepted the explanation relying on a Coordinate Bench Judgment of this Court in the case of ***M/s. Ram Kumar Sinhal –Vs.- State of West Bengal & Ors. (WPA/1140/2025)*** decided on 11.06.2025.

The Learned Advocate appearing for the petitioner invites the attention of this court to a Judgment passed by the Hon'ble Division Bench of this Court in the case of ***Ram Kumar Sinhal –Vs.- State of West Bengal*** reported at ***(2025)177 taxmann.com 48 (Calcutta)*** wherefrom it appears that the decision rendered by the Hon'ble Single

Judge on June 11, 2025 in WPA/1140/2025 was set aside with the following observations:-

"In this regard, we are constrained to observe that the GST Authorities must take note of the issue being faced with regard to accessibility of notices from the Normal Tab from the end of the assessee, which has already been taken note of and red-flagged in several judgments and orders passed by different High Courts.

Thus, the GST Authorities should indicate clearly on the relevant webpage/portal as to what category of notices or orders would come under the Additional Tab and which types of notices or orders would be accessible under the Normal Tab. In the alternative, the GST authorities should ensure that there is no Additional Tab at all and all notices and orders are uploaded under a single tab under the caption "View Notices and/or Orders".

In view of the above observations, there was no proper communication of notice at all to the appellant in the present case at any point of time, since the purported uploading thereof was vitiated on the grounds as indicated above."

Mr. Chakraborty, Learned Advocate appearing for the GST Authorities/State submits, on instruction, that in the instant case there is material to show that the petitioner was otherwise aware of the notices and the orders.

Be that as it may, since the appellate authority has not taken into consideration the order passed by the Hon'ble Division Bench in ***Ram Kumar Sinhal vs. State of West Bengal,*** reported at ***(2025) 177 taxmann.com 48 (Calcutta)*** as aforesaid, the order impugned cannot be sustained.

In view of the aforesaid facts and circumstances the order impugned dated July 31, 2025 is set aside and the matter is remanded to the Appellate Authority to consider the issue in the light of the Judgment passed by the Division Bench of this Court in the case of ***Ram Kumar Sinhal*** (supra) reported at ***(2025) 177 taxmann.com 48 (Calcutta)***. The Appellate Authority shall revisit the petitioner's application for condonation of delay and decide the same once again in accordance with law, taking into consideration the principles laid down in ***Ram Kumar Sinhal*** (Supra) reported at ***(2025) 177 taxmann.com 48 (Calcutta)***.

If after considering the petitioner's application for condonation of delay in the light of the observations made by the Hon'ble Division Bench, the Appellate Authority is satisfied that a case is made out for condonation of delay, the Appellate Authority shall condone the delay and hear out the appeal on merits.

With the above observations, WPA/20172/2025 stands disposed of.

(Om Narayan Rai, J.)