WPA 20331 of 2025

19.11.25
Sl-07
Ct.551
(S.R.)

Megacity Cement Pvt. Ltd. & Anr.
v.
Deputy Commissioner, Jorabagan, Kolkata North, West Bengal & Ors.

Mr. Akash Chakraborty
Ms. Sanjana Jha
Mr. Rishav Manna
Mr. Somnath Roy Chowdhury ... for the petitioners.

Mr. N. Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal ... for the State.

1. This writ petition is directed against two orders – the first being an order dated May 23, 2023 passed by the appellate authority under Section 107 of the WBGST Act, 2017/CGST Act, 2017 thereby dismissing the petitioners' appeal against an order dated March 10, 2022 passed under Section 74 of the said Act of 2017 and the second – an order dated January 31, 2025 passed under Section 74 of the said Act of 2017.
2. The petitioners have approached this Court belatedly but they have explained the delay in approaching this Court in paragraph 18 of the writ petition. It is also submitted that the Tribunal before which appeal could have been preferred against the order impugned is not functional and as such the petitioners would be

remediless if the petition is not entertained. Having gone through the explanation provided in the writ petition which appears to be sufficient and having regard to the fact that the appellate Tribunal is not yet functional, this writ petition is entertained.

3. The petitioners' appeal has been rejected by the appellate authority on the ground of the same being barred by limitation.
4. The petitioners contend that the petitioners could not have had knowledge about the order dated March 10, 2022 at any time prior to August 25, 2022 inasmuch as the same was uploaded on the relevant portal only on August 25, 2022. It is further submitted that only the summary order has been uploaded and the full order has not been uploaded. It is submitted that since the petitioners had filed the appeal on August 28, 2022 i.e. within three days from the date of uploading of the said order, therefore, the petitioners' appeal was within time and as such the petitioners' appeal ought not to have been rejected on the ground of limitation.
5. A perusal of the appellate order reveals that the Appellate Authority disbelieved the petitioners' case that they received the order on August 25,

2022 on the ground that the petitioners failed to show any document in support thereof.

6. It is noticed that the Appellate Authority has observed that *"once any communication in the form of notice, order etc. is issued through GST portal; the same is reflected at the RTP's end in no time. Hence there arises hardly any communication late than the real time"*. This observation is general in nature. Nothing has been mentioned in the order to indicate that the appellate authority has done any inquiry to conclude that the petitioners' assertion was incorrect and that the order was uploaded on a date prior to August 25, 2022. If the case is one of receipt of order on its uploading on portal it will be nigh impossible for the petitioners to prove when the same was uploaded. Such information can only be with the authority uploading the order.

7. The Appellate Authority ought to have tested the veracity of the petitioners' contention and substantiated the conclusion that the authority reached on the basis of some material and not general observation. Indeed an order may show up on portal upon being uploaded, *"in no time"* as observed by the Appelalte Authority but the

question is when was the same uploaded. That requires an answer, which is not there in the order impugned.

8. On that score alone, the order dated May 23, 2023 impugned herein is set aside and the matter is remanded to the appellate authority for fresh consideration.

9. The appellate authority shall first test the veracity of the petitioners' contention as to whether the order impugned before it was uploaded on August 25, 2022 or not. If the order is found to be uploaded on August 25, 2022 then naturally, the appeal filed before the appellate authority would be within time.

10. It has also been submitted by the petitioners that even on August 25, 2022 only the summary order was uploaded and the detailed order has not been supplied to the petitioners at all. The petitioners will be free to make such submission before the appellate authority and the appellate authority shall take the same into consideration in due earnest and deal with the same in accordance with law.

11. It is clarified that if the appellate authority finds that the order was uploaded on a date prior to August 25, 2022 then the appellate authority

shall be free to take an informed decision as to whether delay should be condoned or not, in accordance with law.

12. As regards the order dated January 31, 2025 issued subsequently, it is submitted by Mr. Chakraborty, learned advocate appearing for the respondents that the same had been inadvertently issued. It is submitted that the relevant authority has realized the error committed by it and has on November 14, 2025 issued a rectification order thereby nullifying the demand raised by the said authority by the order dated January 31, 2025. A copy of the rectification order dated November 14, 2025 has been handed up to Court by Mr. Chakraborty. The same is taken on record.

13. WPA 20331 of 2025 stands disposed of with the aforesaid observations. There shall, however, be no order as to costs.

14. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)