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2025

Ct. No.
551

Ab

WPA 20428 of 2025

**Prime Movers Auto Agency Private Limited
Vs.**

**Assistant Commissioner of State Tax,
Budge Budge Charge and others.**

**Mr. Akshat Agarwal,
Ms. Doyel Dey.**

... for the petitioners.

**Mr. Nilotpall Chatterjee,
Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal.**

... for the State.

1. This appeal is directed an order dated June 9, 2025 passed by the appellate authority under Section 107 of the WBGST Act, 2017 whereby the petitioner's appeal against an order dated June 18, 2024 passed under Section 73 of the said Act of 2017 has been dismissed on the ground that the appeal has been filed belatedly.
2. The petitioner has sought to explain the delay occasioned in filing the appeal by referring to the pleadings made before the appellate authority in the appeal preferred by it (at pages 58 and 59 of the writ petition).
3. Attention of this Court has also been drawn to the reply furnished by the petitioner to the notice to show-cause issued by the appellate authority (at pages 80 to 84 of the writ petition). On perusal thereof, it reveals that the petitioner was prevented from presenting the appeal within the prescribed time period since the petitioner had suffered huge financial loss upon the petitioner's dealership with Tata Motors being terminated. It is further submitted that because of the loss that the petitioner suffered, not only did the petitioner's business nosedived and its financial parameters got

shattered but the petitioner also had to retrench its employees. In order to buttress such submission, attention of this Court is drawn to a certificate issued by the Chartered Accountant at page 88 of the writ petition. The said submission and certificate was, however, not there before the appellate authority under Section 107 of the said Act of 2017.

4. The appellate authority has rejected the petitioner's appeal by observing that the causes shown by the petitioner for delayed filing of the appeal were not sufficient.
5. Indeed, financial hardship suffered by a person may not qualify for sufficient explanation in filing an appeal within the statutory period. However, looking at the circumstances in totality and having regard to the fact that in cases like one at hand, where an appellant is also required to put in a certain sum as pre-deposit for the purpose of exercising his right to prefer an appeal against the order in original, and that arranging for funds to meet the pre-deposit mandate may take time if the person is financially distressed, this Court is of the view that delay occasioned by the petitioner in preferring the instant appeal may be condoned subject to the petitioner paying costs of Rs. 10,000/- to the State Legal Services Authority within a week from date. If the petitioner put in the costs of Rs. 10,000/- within a week from date and furnishes proof thereof to the appellate authority, the appellate authority shall proceed to hear the appeal on merits and the order dated June 9, 2025 impugned herein shall then be of no effect.
6. WPA 20428 of 2025 stands disposed of with the above observations.

(Om Narayan Rai, J.)

