08.12.2025
Item No.27
Ct. No. 551
Aloke

WPA 21374 of 2025

M/s Rama Steel Trade Pvt. Ltd.
Vs
Commissioner of Commercial Taxes & Ors.

Mr. Debasish Ghosh
Mr. Tanmay Hazra
... for the petitioner

Mr. S.K. Dutta
Ms. T.Chakraborty
Mr. S. Sanyal
... for the State

Mr. Vipul KUndalia, ld. Sr. Adv.
Mr. Kaustuv Kanti Maity
Mr. Anindya Kanan
Mr. Dhirodattao Chaudhuri
... for the CGST

1. Affidavit-of-service filed be kept with the record.

2. Mr. Ghosh, learned advocate appearing for the petitioner files a supplementary affidavit, pursuant to the leave granted by this Court by the order dated November 24, 2025. Such supplementary affidavit is taken on record.

3. At the outset it is submitted by Mr. Ghosh that he is not pressing prayer (a) of the writ petition.

4. The petitioner assails an order dated July 3, 2024 passed by the appellate authority under Section 107 of the WBGST/CGST Act, 2017 (hereafter the said Act of 2017) whereby the petitioner's appeal against an order dated January 24, 2024 passed under Section 73 of the said Act of 2017 was dismissed on the ground of delay.

5. Mr. Ghosh submits that the writ petitioner could not approach this Court earlier inasmuch as the petitioner reasonably believed that the appellate Tribunal under Section 112 of the said Act of 2017 would become functional. However, since the petitioner's wait got unduly prolonged, the petitioner had to approach this Court by way of the instant writ petition laying challenge to the appellate order dated July 3, 2024.

6. Mr. Ghosh invites the attention of this Court to the appellate order impugned in the writ petition and submits that it was the specific case of the petitioner before the appellate authority that the accountant of the petitioner had fallen sick and was undergoing treatment at the relevant point of time when the appeal was supposed to be filed and as such, the appeal could not be filed within the prescribed period. Inviting the attention of this Court to the second paragraph at page 2 of the appellate order, it is submitted that the petitioner's accountant had also filed an affidavit to that effect before the appellate authority.

7. In view of the fact that the Appellate Tribunal under Section 112 of the said Act of 2017 is not yet functional, and the petitioner would be left remediless if the instant writ petition is not entertained, this Court is inclined to entertain the writ petition.

8. It is noted that the petitioner's appeal was lodged with a delay of 57 days.

9. It is evident from the impugned appellate order itself that the ground for the petitioner's delayed filing of the appeal was its accountant's illness and that the accountant himself had affirmed such fact by way of an affidavit. The delay occasioned by the petitioner is around 57 days in total. The appellate authority has not disbelieved the factum of illness of the petitioner's accountant, yet has rejected the appeal on the ground that the accountant was not the authorized signatory of the petitioner.

10. An accountant may not be the authorized signatory of a person but the role of an accountant in getting the appeal ready by supplying relevant facts and figures cannot be ignored. In such view of the matter, it does not appear that the petitioner has been grossly negligent in pursuing its case.

11. Since delay occasioned by the petitioner in preferring appeal is not attributable to gross negligence or lackadaisical attitude of the petitioner, the same ought to have been condoned by the appellate authority in terms of Section 5 of the Limitation Act, 1963 as held by the Hon'ble Division Bench of this Court in case of **S.K. Chakraborty and Sons vs. Union of India & Ors.** reported at **2023 SCC OnLine Cal 4759**.

12. Accordingly, the delay on the part of the petitioner in preferring the appeal under Section 107 of the said Act of 2017 is condoned and the order dated July 3, 2024 passed by the appellate authority is set aside. The matter is remanded to the file of the appellate authority for considering the petitioner's appeal afresh on merit.

13. WPA 21374 of 2025 is disposed of. No costs.

14. It is clarified that since the writ petition has been filed belatedly, the petitioner shall not be entitled to challenge the appellate proceedings on the ground of limitation.

(Om Narayan Rai, J.)