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jks 10.02.2025

WPA 30434 of 2024

Madhusudan Banik
Vs.
State of West Bengal & Ors.

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

Mr. A. Ray
Mr. Md. T. M. Siddiqui
Ms. S. Shaw
Mr. T. Chakraborty
Mr. S. Sanyal
… … for the State

Learned counsel appearing for the petitioner relied on Sub-Section 9 of Section 107 of the GST Act, 2017 and submits that the Appellate authority must grant three (03) adjournments and give proper opportunity of hearing and relies on Section 107 of the GST Act.

Section 107(9) of the ST Act is reproduced hereinbelow:-

"Section 107 (9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing.

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal."

Learned counsel further submits that Section 107 Sub-section 12 categorically states that "The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decisions."

According to the learned counsel the order passed by the appellate authority has failed in granting opportunity of hearing to the petitioner as well as from the very reading of the order it can be seen that the order is not a speaking order.

Learned counsel appearing for the respondent authorities submits that three opportunities as prescribed under the statute has been granted to the petitioner and all the grounds has been considered by the appellate authority and is reflected from the order dated 22nd November, 2024.

Heard learned counsel for the parties.

Upon perusal of the said order, it is evident that the appellate authority has strictly adhered to the principles of natural justice by providing the petitioner with opportunity of hearing, as mandated under Section 107(9). This Court finds that the procedural requirements laid down in the said provision have been duly complied with before passing the impugned order.

Moreover, this Court notes that all the grounds raised by the petitioner, as enumerated on page 51 of the writ petition, have been thoroughly examined and considered by the appellate authority while rendering its decision dated 22nd November 2024. There is nothing on record to suggest that any material aspect has been overlooked or that there has been any violation of procedural fairness.

In light of these observations, this Court concludes that no interference is warranted in the impugned order. The writ petition, therefore, lacks merit and is accordingly dismissed.

There shall be no order as to costs.

All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Rajarshi Bharadwaj, J.)