D/L - 8
18.02.2025
Court. No. 5
S.Kundu

WPA 30864 of 2024

Imran Khan Kadir
Vs.
Deputy Commissioner of Revenue, State Tax, Colootola and Ezra Street Charge & Ors.

Mr. Arya Das,
Mr. Amit Kumar Shaw
...for the petitioner.

Mr. Md. T.M. Siddiqui,
Mr. Anirban Ray,
Ms. Tanoy Chakraborty,
Ms. Sumita Shaw,
Mr. Saptak Sanyal
...for the State.

1. The present writ petition has been filed challenging the order dated 22nd May, 2024 passed by the Appellate Authority in Form GST APL – 02.
2. Records would reveal that originally a show-cause notice was issued under Section 73 of the WBSGST/CGST Act, 2017 on 18th July, 2023 in respect of the Financial Year 2017-2018 for the tax period July, 2017 to March, 2018. The same ultimately culminated in the order dated 20th December, 2023 and a demand was raised in Form GST DRC 07.
3. Challenging the said order, the petitioner had preferred an appeal before the Appellate Authority under Section 107 of the said Act. Admittedly, no pre-deposit as is required to be made along with the appeal was made by the petitioner. Having regard thereto, by an order

dated 22nd May, 2024 the appeal was rejected for non-compliance of the pre-deposit amount as required under Section 107 (6) of the said Act.

4. Learned Counsel appearing in support of the petition would submit that due to inadvertent error and intricacy of GST law, the petitioner had not complied with the legal mandate of making the pre-deposit. He would submit that this Court may be pleased to set aside the order dated 22nd May, 2024 by condoning the irregularity committed by the petitioner and permit the petitioner to make payment of the pre-deposit so that the petitioner's appeal can be heard on merits.

5. Mr. Sanyal enters appearance on behalf of the respondents.

6. Having heard the learned advocates appearing for the respective parties and noting that the petitioner's appeal has been rejected on technical grounds and at present the Appellate Tribunal under Section 112 of the said Act is yet to be constituted, I am of the view that one more opportunity should be granted to the petitioner to make payment of the pre-deposit as required under Section 107(6) of the said Act.

7. In view thereof, the order dated 22nd May, 2024 passed by the Appellate Authority rejecting the petitioner's appeal is set aside.

8. Liberty is granted to the petitioner to make payment of the aforesaid pre-deposit within a period of two weeks

from date with the Appellate Authority. In the event, the petitioner makes payment of the aforesaid deposit within the period provided herein, the appeal shall be heard on merits. If, however, for technical reasons the petitioner is unable to deposit the same electronically, the petitioner shall be at liberty to deposit the aforesaid amount manually by a demand draft drawn in favour of such authority as may be specified by the Appellate Authority for ensuring compliance of this order and the same shall be accepted by the Appellate Authority.

9. The Appellate Authority shall hear out and dispose of the appeal on merits as expeditiously as possible preferably within a period of eight weeks from the date of making such pre-deposit upon giving reasonable opportunity of hearing to the petitioner.

10. With the above observations and directions, the writ petition stands disposed of.

11. There shall be no order as to costs.

(Raja Basu Chowdhury, J.)