07.07.2025
ML
Item No. 06
Ct.-05
Sayandeep

WPA 151 of 2025

Hind Palace Private Limited
versus
Assistant Commissioner of State Tax Chandini Chowk & Princep Street Charge & Ors.

Ms. Sanjana Jha
Ms. Sukanya Dutta
Mr. A. Jha
....For the petitioner
Mr. Anirban Ray, Ld. GP
Mr. Md. T.M.Siddiqui, Ld. AGP
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...For the State

1. Challenging the order dated 5th December, 2024 rejecting an appeal under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act) on the ground of limitation arising out of an order dated 5th April, 2023 under Section 73 of the said Act for the tax period of July, 2017 to March, 2018, the instant writ petition has been filed.

2. Having heard the learned advocates appearing for the respective parties and having ascertained that the entire demand along with penalty has already been recovered from the petitioner and also noting that despite the multi tiered adjudicatory process being provided for to a registered tax payer, the petitioner has been denied the benefit of availing the remedy before the appellate tribunal by reasons of the appellate tribunal not being constituted, I am of the view that the matter requires consideration on merits.

This apart, although the appellate authority has purported to reject the appeal on the ground that there is no scope to entertain the appeal beyond the prescribed period, the Division Bench of this Court in the case of **S.*K. Chakraborty v. Union of India*** reported in **2023 SCC Online Cal 4759** had held that that the provisions of Section 5 of the Limitation Act cannot be excluded. In view thereof, the matter requires to be remanded back. Such direction is also necessary having regard to the fact that the records of the case are available on the portal which is easily accessible by the appellate authority, and on the contrary for this Court to decide this cause all relevant records would be required to be called for.

3. Having regard thereto, while setting aside the order dated 5th December, 2024, and by condoning the delay, I direct the appellate authority to hear out and decide the appeal on merits as expeditiously as possible but not later than eight weeks from the date of communication of this order.

4. With the above observations and directions, the writ petition is disposed of.

5. All parties shall act in terms of the server copy of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J.)