Item No.- 14
10.03.2025
Rohan
Court No. 2

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

WPA 447 of 2025

M/s Rural Unemployed Co-operative Labor Contract & Construction Society Ltd.
Versus
Commissioner (Appeal) Office of the Joint Commissioner, Central GST & Central Excise & Ors.

Mr. Jagriti Mishra,
Ms. Ananya Bhattacharya,
Ms. Mrinmayee Das.
... for the petitioner

Mr. Dilip Kumar Agarwal,
Mr. Bishwaraj Agarwal.
... for the respondent Nos. 1 & 2

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.

2. Learned counsel representing the petitioner submits as follows. The petitioner did some labour contract job for the Government. Any such work, if done for the Government, is exempted from the ambit of service tax as per Clause 12 of the notification dated 28th June, 2012. The nature of work fully brought the petitioner within the ambit of such exemption. After the petitioner had appeared before the respondent authorities to explain a show cause, he duly submitted a list of such work orders and the nature of work that he did. Infact, the authority partly admitted to the fact that the petitioner was engaged in such work for the Government at paragraph 5.5.1 of the adjudication order. If it had any doubt in its mind about the nature of work that was done by the petitioner in some of such

contracts, the authority could have given a further opportunity to the petitioner. But, the same was not done. The order passed by the adjudicating authority is absolutely perverse and erroneous. However, the petitioner failed to prefer an appeal before the appellate authority in time. In the mean time, the respondent-authorities have requested debit freeze of the petitioner's bank accounts and the same were effected. The petitioner is not even in a position to prefer an appeal in this regard.

3. Learned counsel appearing on behalf of the respondent-authorities denies the allegations and submits as follows. Adequate opportunities were given to the petitioner to respond to the show cause. He ought to have produced the relevant work orders which would have made it clear about what was the nature of work done. The payment certificates and other documents could have been also placed on record. It was further latches on the part of the petitioner that prevented him from preferring an appeal.

4. In the event the petitioner intends to file an appeal even at a belated stage, the same would have to be done with pre-deposit of 7.5 per cent of the amount of tax.

5. In view of the above, the petitioner shall be at liberty to file an appeal with an application for condonation for delay and upon pre-deposit of 7.5 per cent of the tax amount within a period of fortnight from this date. If the same is done with a pre-deposit of the tax amount, the respondent-authorities shall withdraw the request of debit freeze on the bank accounts of the petitioner and the concerned appellate authority would consider the appeal in accordance with law by granting adequate opportunity to the petitioner to place his case and his documents and as expeditiously as possible.

6. With these observations, this writ petition being WPA 447 of 2025 is disposed of.

7. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Jay Sengupta, J)