02.04.2025
Ct. No.2
51
Rohit

Calcutta High Court
In the Circuit Bench at Jalpaiguri

WPA 614 of 2025

D.R. Bhowmik & Co.
-vs-
The State of West Bengal & Ors.

Ms. Srishti Sarkar
……for the petitioner

Mr. Momenur Rahman
Ms. Rima Sarkar
…for the State

The registration of the petitioner was cancelled by an order dated 19th of January, 2022 on the ground of non-submission of the returns within the stipulated time limit.

Aggrieved by such order of cancellation of the registration the petitioner preferred an appeal before the Appellate authority. However, such appeal was dismissed on the ground that the same was filed beyond the maximum period of four months from the date of communication of the order appealed against.

The petitioner has challenged the order passed by the Appellate authority by filing this writ petition. The learned Advocate appearing for the State submits that the Appellate authority does not have the power to condone the delay in preferring an appeal beyond the maximum period of four months.

The learned Advocate appearing for the petitioner places reliance upon a decision of the Hon'ble Division Bench in the case of ***Subhankar Golder-Vs- Assistant Commissioner of State Tax, Serampore Charge & Ors.*** in MAT 639 of 2024 order passed on 9th of April, 2024. The Hon'ble Division Bench in ***Subhankar Golder****(supra)* after taking note of the fact that in case the registration was cancelled on the ground of failure to furnish returns for a continuous period of six months and also that the appeal filed before the statutory authority was dismissed on the ground that it was filed beyond the condonable period was of the view that one more opportunity to remedy the breach can be granted to the petitioner. The decision in the case of ***Subhankar Golder****(supra)* shall squarely apply to the case on hand. This Court is of the considered view that an opportunity may be granted to the petitioner to remedy the breach.

In view thereof the writ petition is allowed and the order of cancellation of registration dated 19th of January, 2022 is set aside subject to the condition that the petitioner files the returns for the entire period of default and pays the requisite amount of tax, interest, fine and penalty. If the petitioner complies with the aforesaid directions within a period of four weeks from the date of receipt of a server copy of this order the registration of the petitioner under the Act shall be restored by the concerned jurisdictional officer. In case the petitioner fails to comply with the aforesaid directions the benefit of this order shall not enure to the petitioner.

For the purpose of compliance of the aforesaid direction the respondent authorities are directed to open the portal so that the returns can be filed and the interest, tax, penalty and fine can be remitted by the petitioner.

(Hiranmay Bhattacharyya, J.)