Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 1565 of 2025

Tapash Mohanta
-vs-
Union of India & Ors.

For the Petitioner	: Mr. Debasish Mukhopadhyay, Ms. Srishti Sarker
For the Respondents	: Mr. Ratan Banik : Mr. Bishwa Raj Agarwal

Heard on : 30.07.2025

Judgment on : 30.07.2025

SAUGATA BHATTACHARYYA, J.:

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

2) By presenting this writ petition, petitioner has questioned order dated 18th July, 2025 issued by the Appellate Authority whereby appeal of the petitioner preferred under Section 107 of the Central Goods and Services Tax Act, 2017 was not entertained solely on the ground of delay in instituting appeal.

3) Learned advocate representing the petitioner submits that cancellation of GST registration was slapped upon the petitioner vide order dated 2nd March, 2023 for alleged failure to furnish return for a period of six months. Appeal was preferred against order dated 2nd March, 2023 which was not entertained being time barred as decided by the appellate authority vide impugned order dated 18th July, 2025. In order to fortify petitioner's case, reliance is placed on the order of the Hon'ble Division Bench passed on an intra-court appeal being **MAT 639 of 2024** (**Subhankar Golder Vs. Assistant Commissioner of State Tax, Serampore Charge & Ors.**).

4) Central GST authorities are represented by learned advocate who has made submissions to defend the decision of the appellate authority dated 18th July, 2025.

5) While taking decision by the appellate authority this Court finds that it ought to have been taken into consideration that the issue which was required to be decided by the appellate authority was cancellation of GST registration of the petitioner which in effect will not prejudice revenue earning of the GST authorities. In similar situation order was passed by the Hon'ble Division Bench in **Subhankar Golder** (supra) where in paragraphs 2 and 3 narrating facts of the case it was decided that the appellant in the said appeal needs to be provided one more opportunity to take steps for filing return within the specified time.

6) Placing reliance on **Subhankar Golder** (supra), present writ petition stands disposed of subject to following conditions and order of cancellation of registration dated 2nd March, 2023 is set aside. Impugned order of the appellate authority dated 18th July, 2025 is also set aside thereby granting leave to the petitioner herein to file return for the entire period of default and pay requisite amount of tax and interest and fine and penalty within a period of four weeks from date. In the event return is filed along with necessary payment as alluded above, petitioner's GST registration under the Act shall be revived.

7) If petitioner fails to submit return and make payment within the aforesaid time, benefit of this order shall not be extended to the petitioner after expiry of aforesaid time and the writ petition would stand automatically dismissed.

8) In order to grant opportunity to the petitioner to take steps in terms of aforesaid directions concerned authorities are directed to open the portal for the petitioner so that the return can be filed for the entire period of default and requisite amount of tax, interest, fine and penalty can be deposited by the petitioner.

9) All parties to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Saugata Bhattacharyya, J.)

Court. 02
Item No.14
(rkd)