IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Ct.551 **04.02.26**
M/L.
Item No.8
(Samar)

WPA 9943 of 2025

Sanjeet Singh
Vs
Assistant Commissioner of State Tax, Barrackpore Charge & Ors.

Mr. Akshat Agarwal,
Mr. Doyel Dey,
…for the petitioners.

Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal,
….for the State.

1. This writ petition has been filed assailing an order dated February 20, 2025 passed by the Appellate Authority under Section 107 of the WBGST Act, 2017/CGST Act, 2017 (hereafter of the 'said Act, 2017') whereby the petitioners' appeal against an order dated September 06, 2022 passed under Section 73 of the said Act of 2017 has been dismissed on the ground of delay.
2. Mr. Agarwal, learned advocate appearing for the petitioner has taken this court through the application for condonation of delay (at pages 52 and 53 of the writ petition) as well as the writ petition and submitted that the petitioner could not approach the Appellate Authority within time since the petitioner was not aware of either the notice to show cause or the adjudication order. It is submitted that the petitioner's registration under GST had been

cancelled challenging which, the petitioner had approached this court by way of a writ petition being WPA 5090 of 2023. The said writ petition was disposed of on March 28, 2023 by directing the respondent GST Authorities to restore the petitioner's registration and open the portal for a period of 30 days to enable to petitioner to make payment of the dues in terms of the said order dated March 28, 2023 with a further direction that if the petitioner defaulted in the payment of the said dues in terms of the said order, the respondent GST Authorities would be fee to cancel the petitioners' registration. Mr. Agarwal submits that in terms of the aforesaid order, the petitioner made the requisite payments whereafter the petitioner's registration was restored and the relevant portal was opened.

3. It is submitted that while meeting GST compliances upon such restoration of the petitioner's GST registration, the petitioner came to know about the adjudication order and the adjudication proceedings. Inviting attention of this court to Ground II of the writ petition, it is submitted by Mr. Agarwal that as the adjudication order had been up loaded on the relevant GST portal under the *"view additional notices and orders"* tab, the petitioner remained unaware about the said order. It is submitted that in view of the judgment of the Hon'ble Division Bench of

this court in the case of **M/s Ram Kumar Sinhal Vs. State of West Bengal (MAT 53 of 2025)** decided on July 7, 2025, the adjudication order cannot be said to have been properly served upon the petitioner at all and therefore limitation did not set in.

4. It is noticed that none of these grounds which have been canvassed before this Court were presented before the Appellate Authority in the application for condonation of delay that was filed before the Appellate Authority. These submissions are being made for the first time before this Court and there is nothing on second to substantiate the same. Mr. Agarwal has however submitted that he may produce the relevant screen shot to demonstrate the uploading of the order in the "additional notice and orders tab".

5. Since these submissions were not made before the Appellate Authority therefore the order passed by the Appellate Authority cannot be faulted at this moment.

6. However, since it has been submitted on behalf of the petitioner that the petitioner has reasonable explanations to offer wherefrom it will appear that limitation for the purpose filing appeal might not have crippled the petitioner's appeal, keeping in view the date when the petitioner first had notice of the adjudication order impugned before the Appellate

Authority by reason of the same not having been properly served upon him as alleged, this court of view that the petitioner should be afforded one more opportunity to approach the Appellate Authority with all the relevant explanations and documents in support of his contention that the order was not served upon the petitioner by any other mode excepting uploading thereof on the "additional notices and orders" tab.

7. If such application is made, within three weeks from date, the Appellate Authority shall consider the same in the light of the judgment of the Hon'ble Division Bench of this court in the case of **M/s Ram Kumar Sinhal (Supra)** and the various other judgments following the said judgement and if the Appellate Authority is satisfied that the petitioner has given cogent reasons to condone the delay or that the petitioner did not have knowledge of the order impugned in terms of the ratio laid down by the Hon'ble Division Bench in the case of **M/s Ram Kumar Sinhal (*supra*)** and the various other judgments of this court following the ratio laid down therein, the Appellate Authority shall proceed to hear the petitioners appeal on merits. In such situation, the appellate order impugned dated February 20, 2025 shall be of no effect and shall be deemed to have been set aside.

8. It is clarified that this court had not gone into the merits of the petitioners' case in this writ petition and all points are left open to be urged by the petitioner before the Appellate Authority and to be decided by the Appellate Authority in accordance with law.
9. WPA 9943 of 2025 stand disposed of with the above observations. No costs.
10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities

(Om Narayan Rai , J.)