

17.03.2026
Sl. No.25
tkm

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

W. P. A. 376 of 2026

[Jayanta Ghosh -Vs- Union of India & Ors.]

Mr. Dhiraj Lakhota
Ms. Radhika Agarwal
Ms. Khushi Kundu
Ms. M Sharma
Mr. Bijon Ghosh

... .. for the petitioner

Mr. Ratan Banik
Mr. B R Agarwal
Mr. Spandan Dutta

... for respondents

1. The affidavit of service is taken on record.
2. The petitioner in the present petition is challenging the ex parte order dated 16.4.2024 passed by the Additional Commissioner, CGST & CE Siliguri Comissionerate, arising from the show-cause notice dated 8.10.2021 confirming a total service tax demand of Rs. 78,25,425/- (inclusive of Swachh Bharat Cess and Krishi Kalyan Cess) by invoking the extended period of limitation under the proviso to Section 73(1) of the Finance Act, 1994 for the period from 01.04.2016 to 30.06.2017.
3. Learned counsel for the petitioner submits that being a government enlisted contractor the petitioner executed essential projects for

various Governmental authorities and bodies, including the North Bengal Development Department and West Bengal State Agricultural Board. The adjudicating authority classified those projects as commercial ventures despite the explicit classification contained in the WBSAMB memo no. 1697 dated 23.6.2022. It is further submitted that in para 2.2 of the impugned order, the adjudicating authority has recorded that the petitioner filed a detailed reply, however, while deciding the issue, the authority ignored the said reply and proceeded on the basis as if no reply had been filed. The impugned order has thus been passed in violation of the principles of natural justice. It is further submitted that he was not aware of the impugned order till 2.2.2025 due to health complications and was not made aware of the said order by his learned Advocate. The petitioner submits that the learned advocate for the petitioner had received the impugned order on 16.4.2024, who had failed to communicate the same to the petitioner.

4. Learned Counsel appearing for the Respondents submits that the impugned

order had been duly communicated to the Petitioner. It is further contended that as many as thirteen opportunities of hearing were afforded to the Petitioner; however, the Petitioner failed to avail the same and remained unrepresented.

5. Be that as it may, a Co-ordinate Bench of this Court, in WPA 1030 of 2025 (*M/s. Joardar & Joardar vs. Union of India*), by order dated 17.12.2025, under similar circumstances, granted liberty to the petitioner therein to approach the statutory appellate authority upon adequately explaining the delay and the reasons for not preferring the appeal within the prescribed period.
6. In the said judgment, the Co-ordinate Bench observed that the appellate authority shall consider and adjudicate the matter in accordance with law, bearing in mind the settled principle that a litigant ought not to suffer for any lapse or inadvertence on the part of his learned advocate. It was further observed that, in the event the petitioner approaches the appellate forum, the application shall be considered in light of the observations made therein.

7. Learned Counsel for the Petitioner submits that the facts of the present case stand on a similar footing, inasmuch as the Petitioner is desirous of preferring an appeal but has been precluded from doing so within the statutory period due to delay.
8. It is further submitted that the impugned order was passed on 16.04.2024 and that the delay in preferring the appeal is attributable to the Petitioner's ill health, coupled with the fact that the order was not effectively communicated to him owing to lapses on the part of the learned advocate who was representing him.
9. Having regard to the aforesaid facts and applying the principles laid down in the aforesaid decision of the Co-ordinate Bench, this Court is inclined to grant an opportunity to the Petitioner to approach the statutory appellate authority, subject to disclosure of sufficient cause explaining the delay in filing the appeal.
10. It shall be open to the appellate authority to consider the Petitioner's application for condonation of delay and to adjudicate the appeal, if entertained, strictly in accordance with law, keeping in view the principles

enunciated by this Court as well as by the Co-ordinate Bench in WPA 1030 of 2025.

11. It is made clear that in the event the Petitioner approaches the statutory appellate authority on or before 25th March, 2026, the appellate authority shall consider the application for condonation of delay on its own merits, in light of the observations made herein, without being influenced by the question of limitation alone.
12. It is made clear that this court has not entered into the merits of the impugned adjudication order and it shall be open to the appellate authority to decide the same on merits.
13. With the above directions, the present writ petition stands disposed of.
14. Urgent Photostat certified copy of this order be given to the parties upon compliance of the necessary formalities.

(Gaurang Kanth, J.)