23.03.2026
Sl. No.32
tkm

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

W. P. A. 408 of 2026

[Prem Gupta-Vs- Deputy Commissioner of Revenue, Darjeeling Charge, & Ors.]

Mr. Boudhayan Bhattacharyya
Ms. S Bansal
Ms. Keya Kundu
Ms. Chayna Kumary
Mr. A Bhattacharya
… … for the petitioner

Mr. Momenur Rahaman
Mr. Pradip Sarkar
… for the State
Mr. Ratan Banik
Mr. Biswhwaraj Agarwal
… for respondent nos. 3 & 5

1. The affidavit of service is taken on record.

2. The petitioner has preferred the present writ petition being aggrieved by the order dated 20.11.2025 passed by the appellate authority whereby the statutory appeal preferred by the petitioner under section 107 was summarily rejected on the ground of non-compliance of the statutory requirement of pre-deposit of 10% of the disputed tax.

3. In brief, the case of the petitioner is that on the basis of mismatch in taxable turn over for the period 2017-2018 as reflected in the return filed by the petitioner in form GSTR1 and GSTR-3B vis a vis the turn over appearing in the form 26AS, and due to

discrepancy in the said 26 AS, a show cause notice was issued to the petitioner on 10.05.2024. A further notice dated 6.10.2023 was also issued. Since none appeared on behalf of the petitioner and no reply was filed, the matter was referred to adjudication under section 74 of the Act and a notice under section 74(5) was issued. Although, the petitioner did not file any reply within the stipulated time, he subsequently appeared in person and produced relevant records.

4. Upon consideration of the materials placed on record, the authority passed an order dated 11.12.2024 determining the tax liability of the petitioner. Being aggrieved thereby, the petitioner preferred a statutory appeal under section 107 of the Act. The petitioner failed to deposit the mandatory pre-deposit as required under section 107(6) of the Act. Consequently the appellate authority rejected the appeal by order dated 20.11.2025.

5. Learned counsel for the petitioner submits that the petitioner is ready and willing to deposit10% of the statutory pre-deposit and prays for an opportunity to prosecute his appeal on merit.

6. Learned counsel for the respondent submits that he has no objection to the said offer of the petitioner.

7. Having heard the learned counsel for the parties and upon consideration of the materials on record, this court finds that the requirement of pre-deposit under section 107(6) of the Act is mandatory in nature and is a condition precedent for maintaining an appeal. In absence of such compliance, the appellate authority cannot be faulted for rejecting the appeal preferred by the petitioner. However, considering that the petitioner has now expressed his readiness to comply with the statutory requirement and in order to afford an opportunity to have the matter adjudicated, this court is of the view that a limited indulgence can be granted.

8. Accordingly, the impugned order dated 20.11.2025 passed by the appellate authority is set aside. The petitioner is directed to deposit 10% towards the statutory pre-deposit within a period of two weeks from date. Upon such deposit being made, the appeal shall stand restored to its original file and number before the appellate authority who shall proceed to decide the same on

merits in accordance with law after affording an opportunity of hearing to the petitioner without entering into the issue of limitation.

9. It is made clear that in the event the petitioner fails to deposit the aforesaid amount within the stipulated time period, this order shall automatically be vacated without further reference to this court.

10. With the above directions, the present writ petition stands disposed of.

(Gaurang Kanth, J.)