

S/L 06
01.07.2026
Court No.7
Susanta

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION

MAT 52 of 2026
CAN 1 of 2026

Future Fortune Infrastructure Private Limited
Vs.
The State of West Bengal & Ors.

*Mr. Dhiraj Lakhota ,
Ms. Radhika Agarwal
Ms. Khushi Kundu
Ms. Nikita Kundu*

...for the Appellant.

*Mr. Jagriti Mishra, Ld. AAAG
Ms. Esha Acharya*

...for the State.

1. The petitioner challenges the order dated 28th April, 2026 passed by the learned Single Judge directing the petitioner to avail the statutory alternative remedy before GSTAT in accordance with law and after complying with all necessary formalities.

2. The aforesaid order was passed in the absence of the learned advocate representing the appellant/petitioner.

3. It has been submitted by the learned advocate representing the appellant that on the day when the matter was disposed of, there was a resolution adopted by the Bar Association for not attending the Court proceeding and request was made by the Association before the Hon'ble Court not to pass any ex parte order adverse to the parties.

4. It has also been submitted that in view of the resolution adopted by the Bar Association, the learned advocate for the petitioner restrained himself from appearing before the Court.

5. Due to non-availability of the learned advocate representing the writ petitioner, the learned Single Judge decided the issue relying upon the submission made by the learned advocate for the State. The writ petitioner did not get any opportunity to place its case on merits.

6. Prayer has been made to set aside the said ex parte order and to decide the matter on merits.

7. We have heard the submissions made on behalf of both the parties that the appellant is aggrieved by the order dated 18th December 2025 passed by the Deputy Commissioner of Revenue, Darjeeling under Section 107 of the West Bengal Goods and Service Tax Act, 2017.

8. The order is an appealable one.

9. As the appellant approached the statutory appellate forum at a belated point of time, the appeal preferred by the appellant stood rejected being time barred.

10. Learned advocate for the appellant submits that there are sufficient grounds for condoning the delay in filing the appeal.

11. In support of such submission that the delay ought to have been condoned by the authority, learned advocate for the appellant relies upon the judgment delivered by the Hon'ble Division Bench of this Court in the case of **Ashok Ghosh Vs. State of West Bengal & Ors.** reported in **2025 SCC OnLine Cal 8646** wherein the Hon'ble Court was pleased to direct the appellate authority to reconsider the prayer of the appellant for condonation of delay after giving the parties opportunity to bring materials on record in support of their respective cases.

12. Reliance has also been placed on the judgment delivered by the Hon'ble Division Bench of this Court in the matter of **Goutam Bhowmik Vs. State of West Bengal** reported in **(2024) 158 taxmann.com 399 (Calcutta)**, wherein the Court reiterated the exceptions to the rule of alternative remedy as settled by the Hon'ble Supreme Court from time to time.

13. It has been reiterated that when an order prejudicial to the writ petitioner has been passed in total violation of the principles of natural justice and where there is no factual dispute a pure question of law or interpretation is involved, writ petition may be entertained.

14. In the instant case it appears that from the very inception of the adjudication proceeding, the appellant, for reasons best known, did not have the opportunity to defend its case. All along the proceeding was held ex-parte. Even the writ petition filed by the appellant was disposed of ex-parte.

15. Whether the appellant had any genuine reason for non appearance ought to be looked into by the appellate forum for appropriate adjudication of the lis, for ends of justice. An opportunity ought to be granted to the appellant for placing its case on merits. Admittedly, in the instant case, no factual dispute has arisen till date.

16. In the facts of the instant case, the Court is minded to relegate the appellant before the statutory appellate forum for adjudication of the case on merits.

17. It will be open for the appellant to file a proper application along with reasons, with supporting documents, seeking condonation of delay within a fortnight from date. The appellate authority is directed to consider the said application leniently.

18. If sufficient cause is shown, then the appellate authority shall condone the delay in approaching the statutory appellate forum.

19. We make it abundantly clear that we have not entered into the merits of the matter and all points are left open to be decided by the appellate authority in accordance with law.

20. The appeal and the connected application stands disposed of.

21. The order impugned dated 28th April, 2026 stands set aside.

22. Parties to act on the basis of the server copy of this order duly downloaded from the official website of this Court.

23. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)

(Ajay Kumar Gupta, J.)