IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

17.02.2026
Ct. no.4
Sl. No. 5
b.r.

WPA 3267 of 2022

SCEC BOENTER KDAS JOINT VENTURES & ANR.

Vs.

Deputy Commissioner of State Tax BI (North Bengal) Alipurduar Zone & Anr.

Mr. Dhiraj Lakhotia (through virtual mode)
Mr. Debasish Mukhopadhyay
Ms. Madhushri Dutts
Ms. Payel Chanda
.... For the Petitioners.

Mr. Subir Kumar Saha, Ld. AGP
Ms. Rima Sarkar
.... For the State.

1. Mr. Dhiraj Lakhotia, learned advocate appears for the petitioners through virtual mode.
2. The petitioners in the instant writ petition challenges, *inter alia,* the order of rejection dated 29.08.2022 passed by the respondent no. 2 on the ground of filing the appeal application under section 107 of the WBGST Act dated 24.08.2022 beyond the statutory period of three months plus the one month condonable window, since there is no scope under the provisions of the Act for

condoning delay in submitting the appeal application beyond statutory period prescribed under the statute.

3. Learned counsel for the petitioners further submits by relying upon paragraph-6 to demonstrate the reason for non-filing of the appeal application within the stipulated period as contemplated under the statute.

4. In this context, learned counsel for the petitioners relies upon a judgement delivered by the Division Bench of this Court by drawing attention to paragraph-45, wherein it has been held that the timeline stipulated under Section 107 Sub-Section (4) of the W.B.G.S.T. Act is not mandatory but directory in nature.

5. Learned Additional Government Pleader, Mr. Subir Kumar Saha, ably assisted by Ms. Rima Sarkar, learned advocate does not object to the same.

6. Having heard the parties and considering the relevant records, I find that the petitioner has been able to make out a prima facie case, for the delay caused in not filing within the statutory period as prescribed under the WBGST Act.

7. This Court finds that the petitioner has not been grossly negligent in filing the appeal and shall not be deprived of a statutory remedy since the reason for delay has been sufficiently explained by the petitioner.

8. In view of the above, the order dated 29.08.2022 is hereby quashed and set aside directing, inter alia, the respondent no.2 to fix a date of hearing and dispose of the same on merits preferably within a period of three months peremptorily from the date of communication of this order treating it as having been filed within time.

9. It is made clear that the petitioners shall not seek for an adjournment on the date fixed by the respondent no.2, failing which appropriate order shall be passed by the respondent no.2 in absence of any of the parties. In the meantime the respondent authorities are restrained from taking any coercive steps till the disposal of the appeal.

10. Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

11. With the above observations and directions, this writ petition, ***WPA 3267 of 2022*** stands ***disposed of,*** without any order as to costs.

12. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Smita Das De, J.)