Item No.69
06.01.2026
Court. No. 2
(gc)

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION

WPA 2527 of 2025

Subholaxmmi Fabrics Private Limited & Anr.
VS
The State of West Bengal & Ors.

Mr. Bikramaditya Ghosh,
Mrs. Matan Chakraborty,
Mr. Ved Rai,
Mr. Mayank Bhandari,
Mr. Vivek Saha
... for the Petitioners.
Mr. Subir Kumar Saha, Ld. AGP,
Ms. Rima Sarkar
...for the State.

1. The petitioners are aggrieved by the rejection of their appeal under Section 107 of the West Bengal Goods and Services Tax Act, 2017.
2. The appellate authority was of the view that the appeal should have been submitted within three months from the date of communication of the order appealed from. The appellate authority could condone the delay by a further period of one month, if he was satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period of three months.
3. Therefore, according to the appellate authority, the appeal could not be filed beyond four months and in the case in hand, the delay was beyond four months.

4. Mr. Ghosh, learned Advocate for the petitioner submits that a Coordinate Bench of this Court in the matter of M/s Carry Co, Prop: Mr. Kajal Kumar Garai Vs. Union of India & Ors., being WPA 2774 of 2025, dated June 9, 2025 under similar facts, had condoned the delay in preferring the appeal and directed the appellate authority to decide the appeal on merits.
5. It is submitted that the appellate authority failed to take into consideration that the order appealed from was not served upon the petitioners. Rather, the order was uploaded in a different tab, that is, the tab for additional notices and orders. Reference is made to page 42 of the application. It is submitted that the there was no occasion for the petitioners to open the tab for additional notices and orders to find out whether the order in original was passed or not.
6. Ms. Sarkar, learned Advocate for the State submits that the petitioner had raised a dispute with regard to the service of the physical copy of the adjudication order. It was not the petitioner's case that the order was uploaded in the additional notices and orders tab.
7. Heard the parties. Page 42 of the writ petition indicates that the order was uploaded in the following manner:-

   *"**Goods and Services Tax***
   Government of India, States and Union Territories

Dashboard>Additional Notices and Orders> Case Details

Case ID	*GSTIN/UIN/Temporary ID*
AD190524008172C	***19AANCS1516P1ZQ***
Date of application/Case Creation	*Tax Period(s)*
	Apr 2019 to March 2020
13/05/2025	*Status*
	Order for Creation of demand issued"

8. The tab for uploading the adjudication order is named and styled as "Orders". The petitioners may have been misled into believing that the adjudication order had not been passed.
9. Ms. Sarkar further submits that a further notice was issued on January 16, 2024, mentioning that the adjudication order was uploaded in the tab for "Additional Notices and Orders".
10. It is submitted that, had the petitioners been a little careful and followed the notices, they would have known that the tab contains the order.
11. In my view, when a person suffers the consequences of an adjudication, the order has to be served in a proper manner. Even if uploading in the portal is accepted as good service, the same must be uploaded properly. Thus, it cannot be said that the petitioners were intentionally negligent in preferring the appeal. Moreover, in the matter of **S.K. Chakraborty & Ors. Vs. Union of India (MAT 81 of 2022 & MAT 82 of 2022),** the Division Bench held that the

appellate authority had the power to condone the delay beyond the extended period of one month by importing Section 5 of the Limitation Act.

12. Under such circumstances, the delay is condoned. The petitioner has shown sufficient cause for condonation of delay.
13. The appellate authority will hear the appeal afresh on its own merits and pass an order expeditiously.
14. The impugned order is set aside.
15. Accordingly, the writ petition is disposed of.
16. However, there shall be no order as to costs.
17. The parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)