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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16160 of 2024

Shishir Kumar Roy
Versus
Assistant Commissioner of State Tax, & Ors.

Mr. Siddharth Pratim Datta
Ms. Sanjana Jha
Mr. Rhitam Chatterjee
... For the petitioner.

Mr. Anirban Ray, Ld. GP
Mr. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
... For the respondents.

1. Affidavit of service filed in Court today is taken on record.
2. Inter alia, challenging the order dated 1st February, 2023, rejecting the appeal under Section 107 of the CGST/WBGST Act, 2017 (hereinafter referred to as the “said Act”), the present writ petition has been filed.
3. Being aggrieved by the order passed under Section 74 of the said Act dated 1st February, 2023 for the tax period April, 2018 to March, 2019 the said appeal was filed. Simultaneously with the filing of the appeal the petitioner also made payment of pre-deposit as is required for maintaining the appeal. Admittedly, such appeal was barred by limitation. There is a delay of 13 months.

4. It is the petitioner's case that the petitioner is layman having no knowledge of GST law. It is also the petitioner's case that he was ill during the relevant period and fully dependent on his accountant. According to him, there is no negligence on his part in proceeding with the matter, however, the accountant having not properly guided the petitioner, the appeal could not be filed within the time prescribed.
5. Having heard the learned advocates appearing for the respective parties and taking note of the pre-deposit made by the petitioner it cannot be said that there is lack of bona fide on the part of the petitioner to prefer the appeal.
6. Be that as it may, although the explanation given by the petitioner does not appear to be sufficient, however, for the ends of justice, the delay in filing the appeal is condoned subject to payment of costs of Rs.5000/- to be paid by the petitioner with the GST authorities within a week from date.
7. Accordingly, the delay in filing the appeal is condoned and the appeal is restored to the original file and number.
8. As a sequel thereto, the order dated 30th April, 2024 passed by the appellate authority stands set aside.

9. The appellate authority is directed to hear out and dispose of the appeal on merits, preferably within a period of 8 weeks from date of communication of this order.
10. Further having regard to the provisions of Section 107(7) of the said Act, I am of the view that the order of attachment of the petitioner's bank account vide notice dated 16th February, 2024, issued in Form GST DRC-13 addressed to the petitioner's banker, Bank of Baroda cannot be sustained, the same is accordingly quashed.
11. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)