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WPA 13802 of 2025

Madhusudan Agarwal
Vs.
Assistant Commissioner of State Tax, Midnapore &
Ors.

Mr. Akshat Agarwal
Ms. Tanima Ghosh
Mr. Rituraj Chakraborty
..... for the petitioner

Mr. Bijitesh Mukherjee
Ms. Manasi Mukherjee
..... for the State

1. Notwithstanding due service of notice, State remains unrepresented in Court today.

2. Mr. Mukherjee, learned Advocate, is engaged in this matter.

3. Let his appointment be regularized by the office of the learned Government Pleader.

4. The present petition has been filed challenging inter alia, the legality and validity of the adjudication order dated 15.05.2024 passed by the respondent No.1 and the appellate order 15th May, 2025 passed by the respondent no.2 under Section 107 of the West Bengal Goods and Services Tax Act (hereinafter referred to as the said 'WBGST Act) and the Central Goods and Services Tax Act, 2017(hereinafter referred to as the said 'CGST Act), whereby the appeal of the petitioner has been dismissed on ground of limitation.

5. Learned counsel for the petitioner submits as follows;

i. That a show cause notice dated 09.04.2024 has been issued to the petitioner demanding tax, interest and penalty.

(ii) That the petitioner came to know, only in the month of January, 2025 after checking the common portal of the GST.

(iii) That the petitioner preferred an appeal before the appellate authority under Section 107 of the said Act but the same has been dismissed solely on the ground of limitation, without considering the merits.

(iv) That the entire proceedings and the impugned order are contrary to law and have been passed in violation of principles of natural justice and without due compliance with the procedure prescribed under the said Act.

6. Learned counsel appearing for the State respondents opposed the writ petition and submitted since the petitioner has been granted ample opportunities to defend his case, the appeal has been rightly dismissed on limitation.

7. Having beard the parties and upon perusing the records made available this Court observes as follows:

(i) The petitioner has been able to make a prima facie case.

(ii) The fact that show cause notice has been only uploaded under the 'tab Additional Notice and Orders' and no separate intimation has been given therefore, the petitioner has been unable to reply to the same. This constitutes a violation of natural justice.

8. Since the petitioner's appeal has been dismissed by the appellate authority only on the ground of limitation and not on merits, considering the peculiar facts of the case, interference by this Court is warranted in ends of justice.

9. In view of the above this Court directs as follows :

(a) The appeal order dated 15.05.2025 is hereby quashed and set aside.

(b) Respondent no. 2 is directed to revisit the issue by considering the grounds taken in appeal preferred by the petitioner on merits.

(c) Respondent no. 2 shall afford opportunity of hearing to the petitioner and pass a fresh reasoned order in accordance with law within 12 weeks from date. Such decision shall be communicated to the petitioner within a week thereafter.

10. With the above observations and directions this writ petition stands disposed of.

11. Since no affidavit in opposition has been called for, the allegations contained in the writ petition are deemed to have been denied and not admitted.

12. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)