

Form No. J(2)

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

Present:

The Hon'ble Justice Saugata Bhattacharyya

W.P.A. 1553 of 2025

Dinesh Sah

-vs-

**The Superintendent of Central Goods & Services Tax,
Jalpaiguri Range & Ors.**

For the Petitioner : Mr. Sandip Choraria,
Mr. Akash Chakraborty

For the CGST : Mr. Ratan Banik,
Mr. Bishwaraj Agarwal

Heard on : 29.07.2025

Judgment on: 29.07.2025

Saugata Bhattacharyya, J.:

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. In the writ petition order of the Appellate Authority dated 25th November, 2024 is under challenge whereby appeal preferred by the petitioner under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "said Act of 2017") was dismissed on the ground of delay.

3. Learned advocate representing the petitioner on virtual mode submits that Adjudicating Authority passed an order on 6th February, 2024 and being aggrieved by the order of the Adjudicating Authority appeal was preferred on 25th June, 2024 which is beyond the period as provided under Section 107(4) of the said Act of 2017. On the date of preferring appeal on 25th June, 2024 there was delay of 19 days.
4. It is also averred in the writ petition that petitioner and his father were staying at Meghalaya and West Bengal respectively. For business purpose since petitioner was staying at Meghalaya he was unable to take steps by preferring appeal within the stipulated time as envisaged under Section 107 of the said Act of 2017. Petitioner prays for consideration of appeal by the Appellate Authority on condonation of delay and to set aside the order of the Appellate Authority dated 25th November, 2024.
5. Learned advocate representing the Central GST Authorities has made submission on virtual mode. It is submitted that delay caused in preferring appeal was not 19 days but delay was of greater period if same is

reckoned from the date of communication of the order of the Adjudicating Authority to the petitioner. Therefore, it may not be a fit case for condoning the delay in order to entertain the appeal under Section 107.

6. Having considered the submissions made on behalf of the respective parties, this Court finds that the Appellate Authority in the impugned order dated 25th November, 2024 proceeded on the premise that the order of the Adjudicating Authority was dated 6th February, 2024 based on which conclusion was drawn that appeal was preferred beyond the time as provided under Section 107.
7. Therefore, submission made by the learned advocate representing the CGST Authority is not in sync with the observations made by the Appellate Authority in the impugned order dated 25th November, 2024 relating to computation of period of delay.
8. Taking note of the observations made by the Appellate Authority in the order dated 25th November, 2024 it appears Court has to consider the issue based on the date of the order of the Adjudicating Authority i.e. 6th February, 2024 not on the basis of communication of the

order passed by the Adjudicating Authority to the petitioner.

9. Moreover, it also transpires from the order of the Appellate Authority that why delay of 19 days was caused in preferring appeal was not taken into consideration before passing the impugned order dated 25th November, 2024.
10. Considering the period of delay of 19 days caused in preferring the appeal this Court finds it apt to condone the delay by setting aside the order of the Appellate Authority dated 25th November, 2024.
11. Thus, the appeal stands revived and the Appellate Authority is directed to decide the appeal on merit without raising the point of delay within a period of three months from date.
12. The writ petition stands disposed of.
13. However, there shall be no order as to costs.
14. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)