14.05.2024
Item No.9
gd/ssd

MAT/660/2024
IA NO: CAN/1/2024, CAN/2/2024
TAKKRA ENGINEERING ENTERPRISE @ M/S TAKKRA ENGINRRTINH ENTERPRISE AND ANR.
VS
THE COMMISSIONER OF STATE TAX GOVERNMENT OF WEST BENGAL AND ORS.

Ms. Dipanwita Ganguly
..for the Appellants.

Md. T.M. Siddiqui,
Mr. T. Chakraborty,
Mr. S. Sanyal
..for the State.

Re: CAN 1 of 2024

1. This application has been filed by the appellants seeking condonation of delay of 90 days in filing this appeal.

2. Learned counsel for the appellants has referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellants were prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 1 of 2024 is accordingly, allowed. The delay in filing the appeal is condoned.

Re: MAT 660 of 2024

5. This intra court appeal by the writ petitioners is directed against the dismissal of WPA 24553 of 2023 dated 20.11.2023.

6. The writ petition was dismissed on the ground that the appellants did not respond to two of the show cause notices and the writ petition was also filed after a period of more than one year and seven months challenging the show cause notice without proper explanation.

7. It could be seen that as of now the order of adjudication has been passed but as pointed out by the learned advocate appearing for the appellants in the show cause notice dated 25.03.2022 no date for personal hearing or time of personal hearing or venue of personal hearing has been mentioned.

8. This being a mandatory requirement, the authority could not have adjudicated the show cause notice and pass the order of adjudication without affording an opportunity of hearing.

9. For the above reason, the appellants are entitled to succeed.

10. Accordingly, the appeal and the writ petition are allowed and the order of adjudication dated 23rd November, 2023 is set aside and the matter is remanded to the adjudication authority for fresh consideration.

11. The appellants are directed to submit a reply to the show cause notice within a period of three weeks from the date of receipt of the server copy of this order after which the adjudicating authority shall fix a date for personal hearing, hear the appellants or their authorized representatives and pass orders on merits and in accordance with law.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)