

16.07.2026

Sl. No.: 17

Court No.10

BM

WPA 6129 of 2026

RAJU GHOSH

VS

THE STATE OF WEST BENGAL AND ORS.

Mr. Himangshu Kumar Ray

Ms. Shiwani Shaw

... for the petitioner

Ms. Manasi Mukherjee

Mr. Bijitesh Mukherjee

... for the State

1. Affidavit of service filed in Court today be kept with the record.

2. The present writ petition has been filed challenging inter alia, the legality and validity of the appellate order 28th January, 2026 passed by the respondent no.3 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 the ground of limitation.

3. Learned counsel appearing for the petitioner submits as follows:

i. That a notice in Form GST DRC-01 bearing reference No.ZD90924039975M dated 26.09.2024 has been issued to the petitioner for the period March 21 to April 22 demanding tax interest penalty.

- ii.** That the said notice has been uploaded on the GST portal under the “tab Additional notice and orders.” As a result of which the petitioner could not respond to the show cause notice.
 - iii.** That the petitioner came to know the order of adjudication dated 3.7.25 only upon receiving a recovery email dated 19.11.2025.
 - iv.** That prior to the issuance of the adjudication order an amount of Rs. 2,33,254/- has been recovered from the electronic credit ledger on 12.3.25. A further amount of Rs. 3,75,830/-has also been recovered on 23.02.2026. In total, 46% of the disputed demand of Rs. 13,13,468/- has already been recovered.
 - v.** That being aggrieved, the petitioner preferred an appeal on 18.12.25. However the same has been dismissed by the appellate order on 28.1.26 solely on the ground of limitation, without going into merit of the case.
 - vi.** That from annexure P13 at page 114, it appears that garnishee proceedings have been initiated for the period 2023-24 to 2025-26 whereas the appellate order relates to Financial Year 2020-21. This shows non application of mind of the respondent authorities.
- 4.** The petitioner places reliance upon Section 107 sub section 7 of the said act, since it has been

contemplated that in cases the appellant has paid the amount under sub section 6 of section 107, the recovery proceedings shall be deemed to be stayed.

5. Learned counsel for the State respondent vehemently opposes the prayer of the petitioner and submits that:

- i. Ample opportunities have been granted to the petitioner to substantiate their case before the appellate authority.
- ii. The petitioner has failed to make out a proper case and did not give any proper explanation for the delay in filing the appeal.
- iii. The appellate order does not suffer from any infirmity and is sustainable in the eye law.

6. Having heard the parties and upon perusing the records this court observes;

- i. That the show cause notice has been only uploaded under the 'tab Additional notice and orders' therefore could not reply to the same, which constitutes a violation of principles of natural justice.
- ii. This court further notes a material discrepancies. The appellate order relates to Financial Year 2020-21 whereas recovery/garnishee proceedings have been initiated for Financial Year 2023-24 to 2025-26.

- 7.** This court of the view that the petitioner is able to make out a prima facie case warranting an interference. In the interest of justice, the petitioner shall be given a further opportunity.
- 8.** This court finds that the reasons for the delay in filing the appeal have been sufficiently explained by the petitioner in paragraph no.11 and 12 of the writ petition. Such reasons are of paramount importance and should be considered by the appellate authority while deciding the case on merits.
- 9.** In view of the above, the appellate order is accordingly quashed and set aside with the following directions:

 - i.The appellate authority shall entertain the appeal and decide the same on merits in accordance with law.
 - ii. The entire excise of adjudication shall be concluded on or before 30th September, 2026. The petitioner shall cooperate and shall not seek any further adjournment.
- 10.** Since the petitioner has already made the pre-deposit for preferring the appeal, no further deposit is required to be paid for expeditious hearing of the matter.

11. All points are left open for the appellate authority to decide on merits. The recovery proceedings shall be not be influenced by this order.
12. With the above observations and directions this writ petition stands disposed of.
13. 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.
14. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)