

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 28561 of 2025

Jalan Brothers Private Limited & anr.
Versus
State of West Bengal & Ors.

Ms. Bulbuli Basu

... For the petitioners

Mr. Tanay Chakraborty
Mr. Saptak Sanyal

.... For the State

1. The matter pertains to a challenge to an order dated 1st December, 2025 whereunder the petitioners' appeal filed under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") stood rejected on the ground of delay. It is the petitioners' case that challenging an order passed under Section 73 of the said Act dated 7th August, 2024, the aforesaid appeal was filed. There was a marginal delay in preferring the appeal.
2. The petitioners would submit that although the petitioners have the right to prefer a further appeal before the appellate tribunal, though the appellate tribunal has been constituted, since the same is not functional, the petitioners have approached this Court. According to the learned advocate for the petitioners, by reasons of dismissal of the appeal, the

petitioners are likely to suffer and it is more likely than not that the demand raised by the respondents in form DRC 07 would be enforced without recourse thereto by the petitioners. In the facts as aforesaid, she submits that this Court should condone the delay and remand the matter back to the appellate authority or in the alternative, take up hearing of the matter.

3. Mr. Sanyal, learned advocate appears for the State. He submits that the Co-ordinate Bench is hearing out similar matters on the aforesaid issue. As such, he prays for an accommodation.
4. Having heard the learned advocates appearing for the respective parties and noting that the petitioners cannot be rendered remediless, however, noting that in order to consider the petitioners' case the records would be required to be called for, and ordinarily, such records are available on the portal and it is far more convenient for the appellate authority to access the records as the appellate authority can access the records directly from the portal, it would be prudent not to decide the cause on merits but to remand the same for a decision on merits, however, considering the submissions made by Mr. Sanyal, this Court is of the view that this matter may be placed before the regular Bench for the consideration. However, pending hearing of the writ petition, the respondents are restrained from enforcing the order passed under

WPA 28561 of 2025

Section 73(9) of the said Act dated 7th August, 2024
for the tax period April 2019 – March 2020.

(Raja Basu Chowdhury, J.)