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By Nidhi, Advocate



Judgment No.: 015
Dt.: 21-11-2023



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Judgment Deals With

Section/Rule	Section 107
Authority	Calcutta High Court
Case Name	Jayshree Bhardwah VS Dy Commissioner of Revenue W.B.State Tax
Dated	07 th August, 2023

Brief Facts:

The petitioner entrusted CA with the accounts, income tax, GST, etc. with regard to her business and continued to hand over cash and make payments in connection with tax and other financial expenses through bank transfer in favour of accountant. In September, 2022 the petitioner went to the Bank and was informed that her current account with the said bank was blocked against recovery of her liability towards payment of GST. The petitioner found that the registered address, phone number and e-mail ID given to the authority were that of the C.A. and not the petitioner. Several attempts made by the petitioner to contact the accountant thereafter were in vain and the petitioner learnt that the C.A. had cheated many of his clients including the petitioner and was absconding. Upon meeting the concerned authority at the GST department the petitioner came to know that there was a demand in the year 2018-2019 against her firm which was not deposited by the C.A. By an order passed on 17.01.2022, the petitioner was directed to make payment of tax along with interest and penalty thereon. The petitioner was unfortunately not aware of the said order. Upon having knowledge of the same, the petitioner preferred an appeal accompanied by an application under Section 5 of Limitation Act, 1963 for condonation of delay in preferring the appeal. The appeal was dismissed solely on the ground of limitation, by an order passed on 27.06.2023. The said order was assailed in the writ petition.

Contention of Petitioner:

The petitioner may be granted an opportunity of hearing before the appellate authority & should not be made to suffer due to laches on the part of her CA. A person who selects his advocate, briefs him, pays the fees demanded by him and then trusts him to do the rest of the things cannot be made to suffer for not acting as a watch dog of the advocate.

Contention of Department:

The petitioner who is proprietor of business should have been more diligent in dealing with financial aspects of business and it is not believable that petitioner relied upon CA entirely without caring to keep a vigil on activities of accountant.

Findings & Order:

The petitioner suffered due to faith and trust reposed upon the CA. In view of the observation made by the Hon'ble Apex, this Court is inclined to hold that the petitioner is entitled to a hearing by the authority on merits before her appeal is disposed of and any liability slapped upon her. The order impugned dated 27.06.2023 dismissing the appeal on the ground of limitation was set aside. The appellate authority was directed to reconsider the appeal preferred by the petitioner on merits upon affording reasonable opportunity of hearing to the petitioner and pass a reasoned order.

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