

27.11.2020
Ct. No.24
SL No.20
KS

W.P.A. No.7838 of 2020

Vijay Kumar Jaiswal
Versus
The State of West Bengal & Ors.
(Via Video Conference)

Mr. Suryaneel Das
.....For the Petitioner
Mr. Abhratosh Majumdar
Mr. Soumitra Mukherjee
Mr. Avra Mazumder
.....For the State

An order dated July 27, 2020 passed under Section 74 of the West Bengal Goods and Services Tax Act, 2017 read with Section 74 of the Central Goods and Services Tax Act, 2017 is under challenge in the present writ petition.

Learned advocate appearing for the petitioner submits that, the adjudicating authority passed the order on the basis of documents, copies of which were not supplied to the petitioner. He draws the attention of the Court to Sub-Section (11) of Section 107 of the Act of 2017 and submits that, although, the impugned order is appealable, the remedy

by way of appeal is not efficacious as, the appellate authority cannot remand the matter to the adjudicating authority. In such circumstances, he submits that, the writ petition is maintainable.

Respondent authorities are represented.

As noted above, an order passed under Section 74 of the Act of 2017 is under challenge.

Indisputably, the impugned order is appealable.

Petitioner expresses an apprehension that the appellate authority will not provide the petitioner the documents which the department seeks to rely upon in support of the case. In fact, the department relied upon the documents before the adjudicating authority without sharing the same with the petitioner. With the deepest respect, such apprehension is misplaced. Any document that, any of the parties in an adjudicating proceeding seeks to rely upon, is required to be shared with the opponent. Therefore, the appellate authority, will no doubt, provide the documents which, the department relies upon in support of its case to the appellant including the documents that, the department

relied upon before the adjudicating authority resulting in the impugned order.

In such circumstances, in view of the existence of the statutory alternative remedy, where the petitioner can urge the point of the non-supply of documents which the department relied upon before the adjudicating authority, resulting in the order of original, I am not minded to interfere with the present writ petition.

W.P.A. No.7838 of 2020 is disposed of.

(Debangsu Basak, J.)