

S/L 40
06.09.2021
Court. No. 2
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WPA 10538 of 2021
M/s. RSD Natural Resources Private Ltd. & Anr
Vs.
Union of India & Ors.
(Through Video Conference)

Mr. Arijit Chakraborti
Mr. R. Kalawatia
Mr. Prabir Bera

.... For the Petitioners

Mr. A. Ray, Ld. G.P.
Mr. T.M. Siddiqui
Mr. D. Ghosh

.... For the State

Mr. Sandip Choraria
Mr. Abhradip Maity

... For Respondent No.1

Pursuant to my order dated 11th August, 2021, Mr. Siddiqui, learned advocate appearing for the State respondents has filed an affidavit with documents to establish that before filing of this writ petition full-text of the order was available in the Portal of the respondents and also contending that opportunity of hearing was given to the petitioner denial of which has been alleged by the petitioners in his writ petition.

Mr. Chakraborti, learned advocate appearing for the petitioner submits that veracity of the documents being screenshot from the portal as annexed to the affidavit is doubtful and he is relying on another screenshot in the same portal.

Considering the affidavit filed by the State Revenue authority which was affirmed on 27th August, 2021 and particularly their pleadings in Paragraphs 3

and 4 of the said application that before passing of the final adjudication order, opportunity of hearing was given to the petitioner and also negating the plea of the petitioner that he was not able to file the appeal because of non-availability of the full-text of the order in the GST Portal which has been annexed to the application by the respondents officer concerned at Page 26 of the said affidavit. These are the disputed question of facts and sitting in the writ jurisdiction, I cannot scrutinize or appreciate these pieces of evidence. Further, even if it is the contention of the petitioner that the notice to show-cause was bad or without jurisdiction that cannot be accepted at this stage when the petitioner had replied to the show-cause notice which he did not annex to the writ petition and the respondents has annexed in its affidavit and further petitioner instead of challenging the legality of the show-cause notice at that stage allowed the proceeding to be completed and finally adjudicated which is an appealable order and ground for non-filing of the statutory appeal by the petitioner was non-availability of the full-text of the order which does not appear to be corrected though Mr. Chakraborti, disputes that this was uploaded after filing of the writ petition. Whatever may be but it is the admitted position that petitioner has statutory remedy

against the order of adjudication by way of an appeal. I am not inclined to entertain this writ petition and accordingly it is dismissed. However dismissal of this writ petition may not prevent the petitioner from taking all the points raised in this writ petition before the appellate authority. In case petitioner files the appeal within four weeks from the date of this order, the appellate authority will not raise point of limitation.

WPA 10538 of 2021 is dismissed.

(Md. Nizamuddin, J.)