Ct. No. 26

25 akb

06.01 2021

W.P.A. 11392 of 2020

Sanjay Kumar Somany
-Versus-
Deputy Commissioner of Revenue,
Bureau of Investigation (North Bengal)
Alipurduar Zone & Ors.

Mr. Piyal Gup[ta
Mr. Parashar Baidya ...For the Petitioner

Mr. Abhratosh Majumdar, **Learned AAG**
Mr. T.M. Siddiqui
Mr. Avra Mazumder ...For State Respondents

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by alleged illegal detention and seizure of his goods. Subsequent to filing of the writ petition, the order in original has also been passed by the relevant Authority imposing tax and penalty upon the petitioner.

Mr. Piyal Gupta, learned Counsel appearing on behalf of the petitioner vehemently argues that the Writ Court has jurisdiction in the matter as the detention and the subsequent order in original are illegal, and accordingly, the Writ Court should intervene.

Mr. Abhratosh Majumdar, learned Additional Advocate General appearing on behalf of the West Bengal GST Authorities submits that an appeal lies under Section 107 of the West Bengal Goods and Services Tax Act, 2017. He further refers to a decision of the coordinate Bench of this Court in the case of ***Gati-Kintetsu Express Private Ltd. Vs. Assistant Commissioner of State Tax, Kharagpur Range & Ors. (W.P. 6633 (W) of 2018)*** to buttress his argument that an appealable order under the statute should not be entertained in writ jurisdiction.

I have heard learned Counsel appearing on behalf of the parties and perused the materials placed on record.

In my view, the petitiner has a statutory alternative efficious remedy available. Accordingly, it would be appropriate to direct the petitioner to prefer an appeal against the impugned order in original before the designated Appellate Authority under the West Bengal Goods and Services Tax Act.

The petitioner is accordingly directed to file such appeal within a period of two weeks and upon such appeal being filed, the Appellate Authority is directed to dispose of the same after granting an opportunity of hearing to the petiioner within a period of six weeks from the date of filing such appeal. Liberty is also given to the petitioner to approach the appropriate Authority for release of his goods in accordance with law and as per the terms and conditions decided by the appropriate Authority.

I make it clear that I have not gone into the merits of the case.

With the above observation, this writ petition is disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Shekhar B. Saraf, J.)