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WPO 966 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

G.C. ACAJU EXIM PVT LTD AND ANR.
VERSUS
THE REGISTRAR NATIONAL COMPANY LAW TRIBUNAL KOLKATA BENCH AND
ANR.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 7th December, 2021.

APPEARANCE:
Mr. Jagannath Ganguly, Adv.
...for the petitioners.

Mr. Shaunak Mitra, Adv.
Mr. Rajesh Upadhyay, Adv.
...for respondent no. 2

Mr. Ratnanko Banerji, Sr. Adv.

Ms. Debjani Ghosal, Adv.
...for NCLT

The Court:- The writ petitioner is aggrieved by an order dated 1st September, 2021 of the NCLT whereby an earlier order dated 26th February, 2021 came to be modified. The earlier order dated 26th February, 2021 had recorded that all issues between the parties would be settled.

In course of arbitration between the petitioner and the respondent no. 2, certain issues came to be raised. The respondent no. 2 approached the NCLT with

an application seeking modification of the order dated 26th February, 2021 to the extent that the issues were not concluded or settled.

The parties have gone for arbitration. Counsel for the writ petitioner submits that his client would be satisfied, if it is allowed to raise all questions before the learned Arbitrator.

This Court is of the view that since the lis before the NCLT has effectively been withdrawn, the parties would be entitled to raise all issues before the Arbitrator, if they are otherwise entitled.

With the aforesaid clarification, the writ petition should stand disposed of.

This Court has noted the objection of the Counsel for the NCLT that the writ petition should not be entertained for availability of any alternative remedy in the form of statutory appeal before the NCLAT. This Court has entertained this writ petition since the issue is rather short. It would be onerous for both the parties to carry the matter into appeal before the NCLAT.

(RAJASEKHAR MANTHA, J.)