15-02-2022
Item No.39
Subrata

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.1975 of 2022
M/s. Rafflesia Trading Private Limited
-vs-
Assistant Commissioner of State Goods and Services Tax, Ballygunge Charge & Ors.

Mr. Rahul Dhanuka
Mr. Harsh Choudhary ...for the petitioner

Mr. A. Ray
Md. T.M. Siddiqui
Mr. D. Ghosh ...for the respondents

Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned order dated November 30, 2021 passed by the respondent-GST authority rejecting the claim for refund to the petitioner on the grounds of limitation.

Learned advocate for the petitioner submits that the impugned order of rejection is bad in law. In support of his contention, he has relied upon an unreported decision of the Bombay High Court dated January 10, 2022 passed in Writ Petition (L) No.1275 of 2021 (Saiher Supply Chain Consulting Pvt. Ltd.-vs-The Union of India & Anr.) and also an unreported decision of the Madras High Court dated September 28, 2021 passed in WP No.18165 of 2021 & WMP Nos. 19386 & 19389 of 2021 (M/s. GNC Infra LLP-vs-Assistant Commissioner (Circle) Ekkatuthangal, Commercial Tax Department) and also my order dated February 2, 2022 passed in WPA No.950 of 2022 (Imran Javed v. Assistant Commissioner, State Tax, Ballygunge Charge & Ors.

Mr Mukherjee, learned advocate appearing for the State, who was asked to consider the aforesaid unreported decisions, very fairly submits that in the facts of the present case the aforesaid decisions are covered in favour of the petitioner, and that the matter should be remanded back to the officer concerned to consider afresh and pass an order on merits.

Considering the submission of the parties, this writ petition being **WPA No.1975 of 2022 is disposed of** by setting aside the impugned order dated November 30, 2021 with a direction upon the first respondent concerned to consider the petitioner's application in question afresh on merits, and not on the point of limitation, and in accordance with law by passing a reasoned and speaking order, within eight weeks from the date of communication of this order.

[Md. Nizamuddin, J]