

27.06.2022

Sl no. 13

Ct no. 2

P.M.

WPA 10922 OF 2022

**I. Max International Proprietary Business
represented by Siddhartha Dasgupta Proprietor.
- Vs
The State of West Bengal & Ors.**

Mr. Rupayan Deb,
Ms. Priya Nandy

... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader
Mr. S. Mukherjee,
Mr. D. Ghosh,
Mr. V. Kothari

... for the State

Heard learned advocates appearing for the parties.

The main grievance of the petitioner in this writ petition is against the action of the respondent authority concerned taking coercive action for recovery of the demand in question arising out of the adjudication order. Against that order petitioner has already filed an appeal before the appellate authority and has made pre-deposit for filing such appeal and documentary proof in this regard appears at page 28 of the writ petition. As per Section 78 of the WBGST Act, if an assessee files an appeal and makes a pre-deposit, in that event no coercive action should be taken for recovery of the demand in question till the disposal of the appeal but in this case in spite of making pre-deposit for filing the appeal, impugned coercive action has been taken by the respondent

authority by issuing garnishee notice upon the petitioner's bank.

Mr. Mukherjee, learned advocate appearing for the respondent WBGST authority submits that mere making pre-deposit before the appellate authority is not sufficient, petitioner will have to produce the documentary evidence before the authority concerned which petitioner has failed.

Considering the submission of the parties this writ petition being WPA 10922 of 2022 is disposed of by giving liberty to the petitioner to produce documentary proof of making payment of pre-deposit for filing appeal before the respondent adjudicating authority concerned, within forty eight hours and if such document is produced before the adjudicating authority concerned he shall pass necessary order within twenty four hours thereafter for withdrawal of the impugned garnishee notice.

It is expected that the appellate authority shall make all endeavour to dispose of the appeal expeditiously without granting unnecessary adjournment to the appellant.

(Md. Nizamuddin, J.)