

02.08.2022

Sl no. 5

Ct no. 2

P.M.

WPA 11415 OF 2022

Tea Promoters India & Anr.

- Vs -

Union of India & Ors.

Mr. Tanoy Chakraborty,
Mr. Nishant Saraf,
Mr. Chhandak Dutta

... for the petitioners

Ms. Purabi Saha (Das)

... for Union of India

Mr. Anirban Ray, Ld. Govt. Pleader
Mr. T.M. Siddiqui,
Mr. D. Ghosh,
Mr. N.Chatterjee,
Mr. D. Sahu

.... For the State

Heard learned advocates appearing for the parties.

By this writ petition, petitioners have challenged the impugned order of the appellate authority dated 24th February, 2022 passed by WBGST appellate authority concerned dismissing the appeal of the petitioners which was filed against the order of the adjudicating authority dated 3rd April, 2021 rejecting the claim of the petitioners for refund relating to the period January, 2020 to March, 2020.

On perusal of the aforesaid impugned order dated 24th February, 2022 I find that though the appellate authority has recorded the statement of facts and grounds of appeal including the prayer but

the appellate authority concerned has dismissed the appeal by passing a non-speaking order and by not dealing and discussing with the facts and all the grounds taken by the petitioners before the appellate authority. Passing a speaking order is a part of natural justice and it is obligatory on the part of every statutory authority, quasi-judicial authority and judicial authority to pass a speaking order. Respondent appellate authority being a quasi-judicial authority has rejected the claim of the petitioner by in total non-application of mind and without giving elaborate reason and making discussion on the ground taken by the petitioners.

Considering the fact and circumstances of the case which appears from record and the grounds taken in the writ petition as well as before the appellate authority concerned, this writ petition being WPA 11415 of 2022 is disposed of by setting aside the aforesaid impugned order dated 24th February, 2022 and the matter is remanded back to the appellate authority concerned to pass afresh reasoned and speaking order after giving an opportunity of hearing to the petitioners or its authorized representatives within four weeks from the date of communication of this order. At the time

of hearing before the appellate authority, petitioners shall be entitled to take all the points before the authority concerned which has been raised in this writ petition and furthermore, on the ground of delay by the petitioners in making the claim of refund in question, the appellate authority shall take a lenient view.

With this observation and direction this writ petition stands disposed of.

(Md. Nizamuddin, J.)