

7.7.2022

ks

sl. 12

WPA 11836 of 2022

M/s. Ultimax Business Solutions Private Limited &
Anr.

Vs

State of West Bengal & Ors.

Mr. Nilotpal Chowdhury,

Ms. Shiwani Shaw

... For the Petitioners.

Mr. A. Ray, Ld. GP.,

Mr. T.M. Siddiqui,

Mr. N. Chatterjee

... For the State.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioners have challenged the impugned adjudication order under Section 74 of the WBGST Act which has been passed pursuant to the show-cause-notice dated 23rd February, 2022 and modified show-cause-notice dated 21st April, 2022. It appears from the record that against the show-cause-notice dated 23rd February, 2022, petitioners by its letter dated 5th March, 2022 prayed for time of 45 days for filing reply to the said show-cause-notice. It also appears from page 76 of the writ petition that on 5th of May, 2022 even after expiry of more than 45 days, petitioners again prayed for extension of time to give reply to both the show-cause-notices. Thereafter, after hearing, nothing from the petitioners after 5th May, 2022, the respondent, Adjudicating Authority passed the impugned adjudication order on 23rd May, 2022 with detail reasoning as appears at page 81 of the writ

petition. So far as going into the merits of the adjudication order is concerned which are based on facts on evidence, this writ Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot go into the same by acting as an Appellate Authority over the same and the statutory Appellate Authority is the appropriate authority for going into the merits of such adjudication order. This is not a case where violation of principle of natural justice has been committed by the Adjudicating Authority by depriving the petitioners of its right to give reply to the show-cause-notice before passing the impugned adjudication order or that in this case the authority who has passed the adjudication order is without jurisdiction or Constitutional validity of any statutory provision is involved in this writ petition.

In view of the discussion made above, without going into the merits of the impugned adjudication order, this writ petition being WPA 11836 of 2022 is dismissed on the ground of availability of statutory alternative remedy by way of appeal.

(Md. Nizamuddin, J.)

