WPA 17393 OF 2022

25.08.2022
Sl no. 3
Ct no. 2
P.M.

Vijander Kumar Goel.
- Vs -
State of West Bengal & Ors.

Ms. Sweta Mukherjee,
Mr. Arup Sarkar
... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader
Mr. S. Mukherjee,
Mr. D. Ghosh,
Mr. D. Sahu
.... For the State

Heard learned Counsel appearing for the parties.

By this writ petition petitioner has challenged the impugned order dated 18th July, 2016 dismissing the appeal of the petitioner filed under Section 84 of the West Bengal VAT Act, 2003 and under Section 9(2) of the CST Act, 1956, copy of which according to the petitioner was served upon him only on 11th May, 2022 and petitioner is further aggrieved by coercive action on the part of the respondent authority by issuing garnishee notices being annexure P/4 to the writ petition.

It is the case of the petitioner that against the assessment order in question petitioner had filed the appeal before the appellate authority which was dismissed on 18th July, 2016 purely on technical ground of not making pre-deposit of 15% of disputed tax.

It is the case of the petitioner that the fate of the said appeal and passing of the impugned order by the appellate authority was served upon him for the first time on 11th May, 2022.

Petitioner submits that the appeal should be heard on merit and he is agreeable to make pre-deposit of 15% of the disputed amount in question without prejudice its right to agitate the quantum of the same in course of hearing of the appeal.

Considering the submission of the parties this writ petition being WPA 17393 of 2022 is disposed of by setting aside the impugned order dated 18th July, 2016 and the matter is remanded back to the appellate authority concerned to consider and pass a fresh order on merit on the aforesaid appeal subject to making payment of 15% of pre-deposit within fifteen days from date. If petitioner makes pre-deposit within the time stipulated herein all orders being annexure P/4 shall stand stayed.

It is expected that the appeal will be heard and disposed of expeditiously and preferably within two months from the date of making pre-deposit.

In case of default in making pre-deposit within the time stipulated herein this order will not survive.

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

(Md. Nizamuddin, J.)