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WPA 16402 of 2019

M/s. JV Gokal & Co. Private Limited & Anr.
Vs
Union of India & Ors.

Mr. Sourav Bagaria
... For the Petitioners.
Mr. K.K. Maiti
... For the Respondents.
Mr. Vipul Kundalia,
Mr. Tapan Bhanja
... For the UOI.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioners have challenged the impugned order of the Appellate Authority under CGST Act, dated 25th June, 2019 confirming the order of the Adjudicating Authority dated 14th December, 2018 rejecting the petitioners' claim of refund under the relevant provisions of CGST and IGST Act. Petitioners submit that impugned orders of both the Adjudicating Authority and Appellate Authority are not sustainable in law in view of the view taken by the Hon'ble Madras High Court in the case of Platinum Holdings Pvt. Ltd. vs. Additional Commr. of GST & C.Ex. (Appeals-II), Chennai reported in 2022(58) G.S.T.L. 3(Mad.) and the judgment of the Hon'ble Gujarat High Court in the case of Britannia Industries Limited vs. Union of India, reported in 2020(42) G.S.T.L. 3(Guj.).

Considering the submission of the parties I am of the view that the Appellate Authority should reconsider the matter and pass a fresh speaking order after giving an opportunity of hearing to the petitioners or its authorised representative and after taking into consideration the aforesaid two judgments, upon which the petitioners have relied, in course of hearing before the Appellate Authority, petitioners shall also be entitled to urge all the points raised in this writ petition.

Accordingly, the impugned order dated 25th June, 2019 is set aside and the matter is remanded back to the Appellate Authority concerned to reconsider and dispose of the appeal in the light of the observations made in this order within eight weeks from the date of communication of this order.

With the above observation and direction, this writ petition being WPA 16402 of 2019 is disposed of.

(Md. Nizamuddin, J.)