31-01-2022
Item No.18
Subrata

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.21484 of 2021
M/s. Cherry Hill Interiors Private Limited & Anr.
-vs-
Union of India & Ors.

Mr. Pramit Bag
Mr. Tarun Chatterjee
Mr. Patit Paban Bishwal ...for the petitioners

Mr. Bhaskar Prosad Banerjee ...for respondent no.2

Mr. A. Ray
Md. T.M. Siddiqui
Mr. Debasish Ghosh ...for the State

Heard learned advocates appearing for the parties.

In this writ petition, the petitioners have challenged the impugned order of the appellate authority under the State GST Act, 2017 dated September 20, 2021 (Annexure P6, p.144) on the grounds of violation of principle of natural justice and that the impugned order is a non-speaking one, since all the relevant documents, which the petitioners wanted to rely and had filed before the appellate authority in course of the proceeding, were not considered and discussed.

Mr Bag, learned advocate appearing for the petitioners, has annexed all those relevant documents in this proceeding also.

Mr Ghosh, learned advocate appearing for the State-respondents, is not in a position to deny or contradict the allegation of the petitioners which is substantiated from the recordings in the impugned order of the appellate authority and very fairly submits that the appellate authority may be asked to consider the petitioners' case afresh by taking into consideration the relevant documents.

Considering the submission of the parties, this writ petition being **WPA No.21484 of 2021 is disposed of** by setting aside the impugned order dated September 20, 2021 and remanding the matter back to the appellate authority concerned to consider afresh and to pass order in accordance with law, after giving an opportunity of hearing to the petitioners or their authorised representative, and after taking into consideration the relevant documents as referred in this writ petition, within eight weeks from the date of communication of this order

Mr Bag, learned advocate for the petitioners, on instructions, submits that petitioners will not claim for any interest on the refund in question.

Since this writ petition is disposed at the motion stage without calling for affidavits, the allegations contrary to the records shall be deemed to have been denied by the respondents.

[Md. Nizamuddin, J]