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03.11.2022
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CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri

WPA 928 of 2022

Mehndihasan Rahemtulla Hariyani
-vs.-
Deputy Commission of Revenue, Bureau of Investigation (North Bengal), Alipurduar Zone & Ors.

Mr. Sandip Choraria,
Ms. Esha Acharya,
Mr. Rajeev Parik
...for the Petitioner
Mr. Bikramjit Ghosh,
Mr. Momenur Rahman
...for the State

The Assistant Commissioner of Revenue, Alipurduar Zone under Bureau of Investigation initiated a proceeding under Section 129 of the West Bengal Goods and Service Tax Act, 2017 against one Saleem, who was the alleged driver/person-in-charge of the relevant vehicle.

The said authority after hearing the said driver/person-in-charge imposed the tax and the penalty under Section 129 (3) of the West Bengal Goods and Service Tax Act, 2017 to the tune of Rs.90,000/- (Ninety Thousand) each upon him.

The petitioner's proprietorship concern namely, M/s Akash Trading Co. filed an appeal under Section 107 of the West Bengal Goods and Service Tax Act, 2017 against the said order passed by the Assistant Commissioner of Revenue, Bureau of Investigation, Alipurduar Zone. The appellate authority was of the view that the adjudication order was passed against Saleem, who was driver of the relevant vehicle. The petitioner's concern being the consignee in respect of the goods had no right to challenge the said order passed by the adjudicating authority. The appellate authority, being the Joint Commissioner, Commercial Taxes, Siliguri Circle, Siliguri, accordingly declined to entertain the appeal.

The petitioner in this writ petition has challenged the said order of the appellate authority dated October 27, 2021.

I am of the view that the appellate authority was not justified in not allowing the petitioner to proceed with the appeal.

Section 107 of the West Bengal Goods and Services Tax Act, 2017 makes it clear that "any person aggrieved" by any decision or order passed under the Act may appeal to the appellate authority within the time limit prescribed in the Statute.

Though the adjudication proceeding was initiated and passed against the driver/in-charge of the vehicle in question, the petitioner's concern being the consignee of the goods, had a reason to be aggrieved by the said order of the adjudicating authority.

Therefore, the impugned dated October 27, 2021, cannot be sustained. Accordingly, the same is set aside.

The appellate authority will hear the appeal as has been filed by the petitioner's concern in accordance with law and dispose of the same within a period of one month from the date of communication of this order.

Accordingly, **WPA 928 of 2022** is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Kausik Chanda, J.)