

08.05.2023
PB
Sl. No.16.

WPA 7503 of 2023

RSD Natural Resources Pvt. Ltd. & Anr.
Vs
The Union of India & Ors.

Mr. Arijit Chakraborty,
Mr. Lalik Baid,
Mr. Prabir Bera,
Ms. S. Saha,
Mr. Deepak Sharma.
... For the Petitioners.

Mr. A. Ray,
Mr. D. Ghosh,
Mr. N. Chatterjee,
Mr. D. Sahu.
.....for the State

Ms. Tanushree Ghosh,
Ms. Sarda Sha,
Mr. Samudra Nil Sarkar.
.....for the UOI.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the appellate authority dated 30th September, 2022, rejecting the appeal in question filed by the petitioner against the impugned adjudication order and dismissing the appeal of the petitioner was solely on the ground of non-payment of 10% of the disputed amount of tax without considering the petitioner's written submission that during the investigation, the petitioner has already made the payment of Rs.19,25,000/- through DRC-03 dated

16th September, 2020 which is more than pre-deposit of 10% which is required to be made for filing the appeal.

Mr. Ghosh, learned advocate appearing for the respondent WBGST authority does not deny the aforesaid submission of the petitioner that the petitioner has already made payment of the aforesaid amount which is more than 10% of the disputed tax but he submits that it has been deposited voluntarily and as such, petitioner will have to make 10% pre-deposit before filing the appeal, such contention of Mr. Ghosh is not accepted.

Considering the facts and circumstances of this case and submission of the parties, the aforesaid impugned order dated 30th September, 2022 is set aside and the matter is remanded back to the appellate authority to consider and dispose of the appeal in question in accordance with law on merit and by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner or its authorized representatives within 8 weeks from the date of communication of this order.

With this observation and direction, this writ petition being WPA 7503 of 2023 is disposed of.

(Md. Nizamuddin, J.)

