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WPA 10099 of 2023

M/s. Calcutta Overseas Corporation
Vs
Principal Commissioner of CGST & CX, Kolkata North
Commissionerate & Ors.

Mr. Pranit Bag,
Mr. Rhiddhimn Mukherjee,
Mr. Raju Mandal
... For the Petitioner.

Mr. K.K. Maiti,
Mr. Tapan Bhanja
... For the Respondent Nos. 1 & 3.

Mr. Sanjukta Gupta
... For the UOI.

Mr. A. Ray, Ld. GP.,
Mr. T.M. Siddiqui,
Mr. S. Mukherjee,
Mr. V. Kothari
... For the State.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the Appellate Authority of CGST, dated 11th January, 2023 dismissing the appeal of the petitioner by confirming the order in original rejecting the claim of the petitioner for refund in question on the ground that the documents in support of claim of such refund were not available before the Adjudicating Authority.

Considering the submission of the parties I am of the view that the Appellate Authority has the power to look into both on facts and in law and the Appellate Authority is the last fact finding authority. Though the petitioner could not produce the relevant documents

before the Adjudicating Authority, the same cannot be ignored by the Appellate Authority on the ground that those were not available before the Appellate Authority.

Considering the facts and circumstances of the case and submission of the parties, the aforesaid impugned order of the Appellate Authority dated 11th January, 2023 is set aside and the matter is remanded back to the Appellate Authority concerned to pass a fresh order by considering the claim of refund in question made by the petitioner subject to relevancy and genuineness of the documents in question which petitioner intends to rely. Final order should be passed by the Appellate Authority concerned within a period of eight weeks from the date of communication of this order, in accordance with law and by observing the principles of natural justice.

This writ petition being WPA No.10099 of 2023 stands disposed of.

(Md. Nizamuddin, J.)