19.06.2023.
p.b.
Sl. No.28-30.

WPA 12130 of 2023
With
WPA 13253 of 2023
with
WPA 13689 of 2023

M/s. LGW Limited
Vs.
The Assistant Commissioner, Service Tax Division-II, (Presently designated as the Assistant Commissioner, Bidhannagar Division, Kolkata North CGST & CX Commissionerate) & Ors.

Mr. Somnath Ganguli,
Mr. Sukalpa Seal,
Mr. Bhaskar Sengupta,
Ms. Priyamvaqda Singh.
........for the petitioner.
Mr. U. S. Bhattacharya,
Mr. Tapan Bhanja.
........for the CGST authority.
Mr. K. P. Chatterjee.
........for the UOI.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 22nd March, 2023 passed by the Customs, Excise & Service Tax Appellate Tribunal, Kolkata on the order of remand made by the Hon'ble Division Bench of this Court by the order dated 1st December, 2022 in MAT No.1663 of 2022 by directing the learned Tribunal to consider afresh the appeal in question filed by the petitioner which was dismissed on the ground of limitation, by taking note of the observation of the Hon'ble

Division Bench more particularly about the fact that the department for the earlier period i.e. from April, 2008 to September, 2008 has accepted the classification adopted by the petitioner on the specified services, while considering for condonation of delay in filing the appeal in question. I have perused the aforesaid impugned order of the Tribunal dated 22nd March, 2023 and on perusal of the same, I do not find a single word in the aforesaid impugned order with regard to specific direction of the Hon'ble Division Bench of this Court dated 1st December, 2022 where the tribunal was specifically asked to take the aforesaid observation which was made by the Hon'ble Division Bench of this Court in paragraph 13 of the said order to consider the earlier period in question relating to which the department has accepted the classification adopted by the petitioner in his specified services.

Considering the facts and circumstances of the case as appears from record and submission of the parties, I am of the view that the aforesaid impugned order is in total non-application of mind and is non speaking order and I am also of the view that no useful purpose will be served in keeping the writ petition pending and the matter should be remanded back to the sales tax authority tribunal to pass a fresh order after taking into consideration the observation made by the Hon'ble

Division Bench of this Court in paragraph 13 of the aforesaid judgment dated 1st December, 2022.

With this observation and direction, these writ petitions being WPA 12130 of 2023, WPA 13253 of 2023 and WPA 13689 of 2023 are disposed of.

(Md. Nizamuddin, J.)