

02.08.2023
PB
Sl. No.19.

WPA 17129 of 2023

Edelweiss Rural & Corporate
Services Limited & Anr.

Vs

The Assistant Commissioner of
State Tax, Taltala Charge, WBGST & Ors.

Mr. Ankit Kanodia,
Ms. Megha Agarwal,
Mr. Jitesh Sah.

... For the Petitioners.

Mr. A. Ray,
Mr. T. M. Siddiqui,
Mr. S. Sanyal,
Mr. T. Chakraborty.

.....for the State

Heard both the parties.

Petitioner has filed this writ petition being aggrieved by the action of respondent authorities concerned in refusing to refund in question and petitioner submits that the issue involved in this case is covered by a decision of Hon'ble Division Bench of this Court dated 12th May, 2023, in MAT No.791 of 2023 (Earthmark Traders Vs. Joint Commissioner, State Tax Chinabazar & Rajakatra Charge & Anr.). Petitioner submits that its grievance was not redressed by the appellate authority also in its order dated 28th March, 2023 and further alleges that the appellate authority has rejected the claim of the petitioner on

additional new ground which was not the ground for rejection of claim by the adjudicating authority. Petitioner further submits that some relevant documents which were not available to the petitioner in course of the appellate proceeding to substantiate the claim of the petitioner for refund may be allowed to be considered by the appellate authority.

Considering the facts and circumstances of the case and in view of submission made by the Additional Government Pleader that the matter may be remanded to the appellate authority to consider the aforesaid relevant documents in support of his claim in question, the impugned appellate order dated 28th March, 2023 is set aside and the matter is remanded back to the appellate authority concerned to pass fresh order after considering the relevant documents referred in this writ petition and to pass a 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 17129 of 2023 is disposed of.

(Md. Nizamuddin, J.)

