

18.10.2023
Item No.12
gd/ssd

MAT/1366/2023
IA NO: CAN/1/2023
PARESH NATH BANERJEE
VS
STATE OF WEST BENGAL AND ORS.

Mr. Himangshu Kumar Ray,
Mr. Subhasis Poddar,
Mr. Amit Saha,
Ms. Shiwani Shaw
..for the Appellant.

Md. T.M. Siddique,
Mr. S. Sanyal
..for the State.

1. This intra court appeal by the writ petitioner is directed against the order passed on 17th July, 2023 in WPA 15133 of 2023.

2. The learned Single Bench has dismissed the writ petition on the ground of availability of alternative remedy.

3. We are of the view that the order passed by the learned Single Bench was perfectly correct and does not call for any interference.

4. Accordingly, that portion of the order is affirmed and the appellant is directed to avail the alternative remedy and such an appeal is filed before the appellate authority within a period of 30 days from the date of receipt of the server copy of this order, the appeal shall be entertained without reference to the limitation.

5. The learned advocate for the appellant submitted that more than Rs.11 lakhs has already been recovered from the appellant.

6. If that be so, the question of pre-deposit would not arise since the entire tax has been recovered. Since the tax has already been recovered, the attachment of the appellant's cash credit account shall be lifted. The other direction issued by the learned Single Bench is also affirmed and liberty is granted to the appellant to submit a representation to the Additional Chief Secretary, Finance Department, Government of West Bengal.

6. The learned advocate for the appellant submitted that for the same issue Audit Department issued a notice.

7. This matter can be raised before the appellate authority and if the appellate authority finds that the audit notice is for the same period and for the same issue, let appropriate direction be issued to the Audit Department to keep the matter in abeyance.

8. For the above observations, this appeal stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)