WPA 19938 OF 2023

28.08.2023
Sl no. 20
Ct no. 2
P.M.

Sunita Bissa
- **Vs** -
Assistant Commissioner of Revenue, Bureau of Investigation, South Bengal Howrah Zone & Ors.

Mr. Anil Kumar Dugar
... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader
Md. T. M. Siddiqui,
Mr. T. Chakraborty,
Mr. S. Sanyal.
... for the State

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order of the adjudicating authority, dated 10th July, 2023 passed by the GST authority concerned imposing penalty for release of the goods in question which is an appellable order under the statute.

On perusal of the aforesaid impugned order I find that the same has been passed after making elaborate discussion and is a speaking order and if petitioner is not satisfied with the quantum of penalty by contending that the petitioner is the owner of the goods in question which is a disputed question of fact highly disputed by the respondents.

This Court in exercise of constitutional writ jurisdiction under Article 226 of the Constitution of India cannot act as an appellate authority over the impugned adjudication order and substitute the reasons and findings of adjudicating authority which is based on evidence and the appropriate forum to adjudicate such dispute is the appellate authority.

Furthermore, I find that the impugned order has been passed neither in violation of principle of natural justice nor is without jurisdiction or contrary to any specific provisions of law nor prima facie any procedural irregularity has been committed by the adjudicating authority in passing the aforesaid impugned order.

Considering the facts and circumstances and this case and the nature of dispute involved relating to the ownership of the goods in question which is based on material evidence and in view of dispute relating to determination of quantum of penalty I am not inclined to entertain this writ petition being WPA 19938 of 2023 and accordingly the same is dismissed.

However, dismissal of this writ petition will not be a bar on the part of the petitioner to raise all the points raised in this writ petition before the appropriate authority concerned if appeal is filed and the same shall be considered in accordance with law.

(Md. Nizamuddin, J.)