WPA 24793 OF 2023

04.12.2023
Sl no. 18
Ct no. 2
P.M.

Balaram Das
- Vs -
The Superintendent, CGST & CX Range – 5, Bishnupur Division, Kolkata & Ors.

Mr. Sukanto Chakraborty,
Mr. Arka Ghosh,
Mr. Zubair Ahmed
… for the petitioner

Mr. Kaushik Dey,
Mr. Abhradip Maity
… for the respondent

Mr. Samarjit Roy Chowdhury,
Mr. Amit Sharma
… for Union of India

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the appellate authority dated 22nd March, 2023 passed by the WBGST authority concerned dismissing the appeal of the petitioner against the common order of the adjudicating authority relating to financial year 2017-2018 and 2018-2019 on the ground that petitioner has not made pre-deposit of the 10% of the disputed amount of the confirmed disputed tax amounting to Rs. 72,116/- which relates to financial year 2018-2019.

It is the case of the petitioner that the impugned order of the appellate authority dismissing the appeal of the petitioner by taking into consideration the issue of pre-deposit relating to financial year 2018-2019 is illegal and not sustainable in law and in non-application of mind by the appellate authority since the petitioner has not filed any appeal against the adjudication order relating to financial year 2018-2019 and it has filed appeal only against the adjudication order confining to financial year 2017-2018 only which is matter of record.

Mr. Dey, learned advocate representing the respondent CGST authority concerned is not in a position to deny or contradict the aforesaid factual position which appears from record that the petitioner has filed appeal before the appellate authority against the impugned order in original confining to the financial year 2017-2018 only and nowhere petitioner has challenged the order in original relating to financial year 2018-2019.

Considering the facts and circumstances of this case which appears from record and submission of the parties and on perusal of the impugned adjudication order I find that the same is perverse and contrary to record and not sustainable in law and accordingly the same is set aside and the matter is remanded back to the appellate authority concerned to hear and dispose of the appeal on merit relating to the financial year 2017-2018 after giving an opportunity of hearing to the petitioner or its authorised representatives within period of eight weeks from the date of communication of this order.

With this observation and direction this writ petition being WPA 24793 of 2023 is disposed of.

(Md. Nizamuddin, J.)