

20.12.2023

Sl no. 14

Ct no. 2

P.M.

WPA 27745 OF 2023

**Assistant Commissioner of CGST &
CX, Budge Budge Division, Kolkata
South Commissionerate**

- Vs -

M/s. J. V. Gokal & Co. Pct. Ltd. & Ors.

Mr. K. K. Maiti,
Mr. Tapan Bhanja

... for the petitioner .

This writ petition has been filed by the petitioner being the CGST authority concerned.

Petitioner files affidavit of service which may be kept with the record.

None appears for the respondents.

Heard learned advocate appearing for the petitioner.

In this writ petition, CGST adjudicating authority itself is a petitioner challenging the impugned order dated 18th October, 2022, of the appellate authority, on the ground that the same is without jurisdiction on the face of it in view of Section 107(11) of the CGST Act, under which there is specific bar on the part of the appellate authority of the CGST to remand any matter. Statute confers jurisdiction upon it only either to confirm, modify or annul an order or a decision of the adjudicating authority and the action of remanding the matter to

the adjudicating authority is beyond its jurisdiction. Since a pure question of law that the aforesaid impugned order is without jurisdiction is involved in this writ petition, no affidavit is required by the parties for adjudicating the issue involved in this writ petition and since the impugned order is contrary to Section 107(11) of the CGST Act and without jurisdiction on the face of it, the aforesaid impugned order is set aside by remanding the matter to the appellate authority concerned to pass a fresh speaking order in accordance with law and after giving opportunity of personal hearing to the petitioner as well as assessee/ private respondents, within a period of 8 weeks from date.

With this observation and direction, this writ petition being WPA 27745 of 2023 is disposed of.

(Md. Nizamuddin, J.)