

OD 16

ORDER SHEET

WPO 236 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

HARSH POLYFABRIC PVT LTD
Vs
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date 31st January, 2023

Appearance:
Mr. Dipankar Majumder, Adv.
...For the Petitioner
Mr. A. Ray, Ld. GP
Mr. T.M. Siddiqui, Adv.
Mr. Soumitra Mukherjee, Adv.
Mr. D. Ghosh, Adv.
...For the State
Mr. K.K. Maiti, Adv.
Mr. Tapan Bhanja, Adv.
Ms. Ekta Sinha, Adv.
...For CGST Authority

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the appellate authority dated 10th March, 2021 passed under the relevant provision of WBGST Act, as well as constitutional validity of the circular no. 31/2019 (circular no. 110/29/2019-GST).

So far as the challenge to the constitutional validity of the aforesaid circular is concerned, petitioner does not press for the same. In addition, I find that the constitutional validity of aforesaid circular was not raised before the appellate authority as appears from the grounds of appeal.

But so far as the legality of the impugned order of the appellate authority is concerned since the same was passed ex parte though for whatever may be the reason the petitioner could not participate at the time of hearing, in the interest of justice the aforesaid impugned order of the appellate authority dated 10th March, 2021 is set aside and the matter is remanded back to the appellate authority concerned to pass fresh speaking order in accordance with law after giving opportunity of hearing to the petitioner or its authorised representative, within a period of twelve weeks from the date of communication of this order.

Needless to mention that no unnecessary adjournment should be granted to the parties and if the petitioner does not co-operate in the hearing, the appellate authority concerned is free to pass ex parte order.

With these observations and directions, this writ petition being WPO 236 of 2021 stands disposed of.

(MD. NIZAMUDDIN, J.)

