

M/L 362
19.09.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10016 of 2024

M/s. BLA-BKB (JV)
Versus
The State of West Bengal & Anr.

Mr. Kartik Kurmy
Ms. Priya Paul
... For the petitioner.

Mr. Anirban Ray, Ld. GP,
Mr. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
... For the State

1. Challenging, inter alia, the order passed under Section 73(9) of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") dated 28th December, 2023, for the tax period July 2017 to March, 2018, the instant writ petition has been filed.
2. Although the challenge in the writ petition is with regard to the jurisdictional issue, Mr. Kurmy, learned advocate appearing on behalf of the petitioner after arguing the matter for some time would seek leave to challenge the aforesaid order before the appellate authority under Section 107 of the said Act.
3. Mr. Siddiqui, learned Additional Government Pleader appearing on behalf of the respondents would submit that this matter can be appropriately decided by the appellate authority.

4. Having heard the learned advocates appearing for the respective parties and considering the fact that the Appellate Tribunal, is yet to be constituted, I am of the view that the petitioner should be permitted to approach the appellate authority. Having regard to the alternative remedy available and the stand taken by the petitioner, it will only be appropriate to have the issue raised herein be adjudicated by the appellate authority at the first instance.
5. The appellate authority under Section 107 of the said Act shall hear out and dispose of the appeal provided the same is filed within two weeks from the date of receipt of the server copy of this order, subject to compliance of other formalities by the petitioner.
6. In the event, such appeal is filed, the appellate authority, having regard to the peculiar facts of the case shall hear out and dispose of the appeal on merit as expeditiously as possible, preferably within a period of 12 weeks from the date of filing such appeal.
7. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

