

30.07.2024
Item No.
AD 7
Saswata

W.P.A. 12949 of 2024

**M/s S.W. Iron Works Pvt. Ltd. & Anr.
versus
State of West Bengal & Ors.**

Mr. Prabir Bera
Mr. Deepak Sharma

...For the petitioners

Mr. Anirban Ray, Ld. GP
Mr. Md. T.M.Siddiqui
Mr. Tanoy Chakraborty
Mr. S. Sanyal

...For the respondents

1. Mr. Bera, learned advocate appearing for the petitioners by placing reliance on a notification dated 11th July 2024 issued by the Principal Commissioner (GST) submits that inasmuch as the petitioners have already paid the entire penalty in terms of Section 129(1)(a) of the WBGST & CGST Act, 2017 (hereinafter referred to as the "Said Act"), the demand which was confirmed by order dated 31st January 2024 by the appellate authority under Section 107 of the said Act cannot be enforced at least till such time the appellate tribunal is constituted under Section 112 of the said Act.

2. In view thereof, the petitioners pray for leave to withdraw the aforesaid writ application with liberty to apply before the appellate tribunal on its constitution.

3. Mr. Chakraborty, learned advocate appearing for the State does not oppose such prayer. He only submits that the petitioners must, in the interregnum, file an undertaking / declaration with the jurisdictional proper officer that he will file an appeal against the order of the appellate authority before the Tribunal as and when it

comes into operation within the time line mentioned in Section 112 of the said Act.

4. Having heard the learned advocates appearing for the respective parties and taking note of the guidelines circulated by the Principal Commissioner (GST) dated 11th July 2024, subject to petitioners filing an undertaking in terms of paragraph 5 of the said notification within a period of 3 weeks from date, liberty is granted to the petitioners to withdraw the writ application .

5. Petitioners shall be at liberty to approach the appellate tribunal as and when it is constituted under Section 112 of the said Act. If no such undertaking is filed within the time indicated hereinabove, the benefit of this order shall not enure to the petitioners.

6. In view thereof, the writ application being WPA 12949 of 2024 is accordingly disposed of.

7. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)