9th July, 2024
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W.P.A 13030 of 2024

East India Shipping Agency
Vs.
State of West Bengal and others

Mr. Akash Dutta
Mr. Aditya Dutta
...for the petitioner.

Mr. Anirban Ray
Md. T.M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...for the State.

1. Leave granted to the petitioner's advocate on record to correct the prayer portion in course of the day.

2. The present writ petition has been filed, *inter alia*, praying for a direction upon the respondents to allow the petitioner to file an appeal under Section 107 of the West Bengal GST/CGST Act, 2017 (hereinafter referred to as 'the said Act') limited to the specified tax period, that is, 2020-21 to 2022-23.

3. It is the petitioner's case that pursuant to the show cause notice issued on 21st September, 2023 under Section 74 of the said Act, for the tax period April 2018 to March 2023, an order under Section 74 of the said Act had been passed on 18th December, 2023.

4. Although, the petitioner had duly responded to the show cause, the proper officer without considering the petitioner's response appropriately, had disposed of the same.

5. The petitioner states that the petitioner has been advised to prefer an appeal only in respect of the tax period 2020-21 to 2022-23.

6. Unfortunately, since, the portal only permits the petitioner to file a composite appeal, from the order dated 18th December, 2023 the petitioner has been unable to file the same. Mr. Dutta learned advocate representing the petitioner submits, unless appropriate order is passed permitting the petitioner to prefer the appeal from part of the order dated 18th December, 2023, to the extent indicated hereinabove, the petitioner shall suffer irreparable prejudice.

7. Mr. Chakraborty, learned Advocate representing the respondents, by placing reliance on Section 107(6) of the said Act, submits that there cannot be any difficulty on the part of the petitioner to prefer an appeal from a part of the order under Section 74 of the said Act provided, the petitioner complies with the provisions of Section 107(6)(a) and (b) of the said Act.

8. He submits since, the petitioner is only interested to prefer an appeal for the tax period 2020-21 to

2022-23, the petitioner should pay in full, the amount of tax, interest, fine, fee and penalty arising out of the order dated 18th December, 2023 insofar as the tax period for which the petitioner is not interested to prefer an appeal.

9. Heard the learned Advocates appearing for the respective parties and taking into consideration the materials on record, I am of the view that in the event the petitioner makes payment with the concerned respondents the entirety of the amount of tax, interest, fine, fee and penalty payable under Section 107(6)(a) of the said Act, in respect of determination made for the tax period for which the petitioner is not interested to prefer the appeal and pays a sum equal to 10 per cent of the remaining amount of the tax in dispute arising from the said order in respect of the tax period which forms subject matter of appeal, there cannot be any difficulty on the part of the respondents to admit the said appeal and hear out the same on merits.

10. Having regard to the above, if the appeal is filed within a period of three weeks from date, upon compliance of the conditions as indicated above, the Appellate Authority in such case would be obliged to consider and dispose of the said appeal on merits within a period of eight weeks from the

date of filing of such appeal upon giving opportunity of hearing to the petitioner.

11. With the aforesaid directions, writ petition stands disposed of.

12. There shall be no order as to costs.

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

(Raja Basu Chowdhury, J.)