M/L 08.08.2024
62. Court No.5
(Tanmoy)

WPA 15363 of 2024

Elhard Marketing Limited
-Versus-
State of West Bengal & Ors.

Mr. Arun Kumar Upadhyay, Adv.,
Mrs. Shobha Upadhyay, Adv.
...for the petitioner.

Mr. Anirban Ray, Ld. GP,
Mr. Md. T.M. Siddiqui, Ld. AGP,
Mr. Tanoy Chakraborty, Adv.,
Mr. Saptak Sanyal, Adv.,
Mr. Debraj Sahu, Adv.
...for the State respondents.

1. Present writ petition has been filed, *inter alia*, challenging the order dated 22nd January, 2024, passed under Section 73(9) of the WBGST Act, 2017 (hereinafter referred to as the 'said Act'), for the Tax period from April 2018 to March 2019.
2. It is the petitioner's contention that inasmuch as the supplier has failed to file its returns in FORM GSTR-3B proceeding under Section 73 of the said Act had been initiated against the petitioner.
3. It is, however, noticed that the order passed under Section 73(9) of the said Act is an appealable order. The petitioner has adequate alternative remedy in the form of appeal. It appears that the present writ petition has been filed on 11th June, 2024.
4. Since the petitioner has an alternative remedy in the form of appeal, I am of the view that the petitioner should approach the Appellate Authority.

5. Having regard to the same, in the event, the petitioner approaches the Appellate Authority within a period of three weeks from date, the Appellate Authority shall having regard to the pending of the petition before the Court, hear out and dispose of the appeal on merits subject to compliance of other formalities, as expeditiously as possible and preferably within a period of eight weeks from the date of filing of such appeal.
6. With the above observations, the writ petition stands disposed of.
7. Urgent Photostat certified copy, if applied for, be made available to the parties, upon compliance of all usual formalities.

(Raja Basu Chowdhury, J.)