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08.11.2024

WPA 17801 of 2024

Mohammad Samsuddin
Vs.
Assistant Commissioner of Revenue,
State Tax & Ors.

Mr. Debanuj Basu Thakur
… … for the petitioner

Mr. A. Ray
Md. T.M. Siddiqui
Mr. N. Chatterjee
Mr. T. Chakraborty
Mr. S. Sanyal
… … for the State

Learned counsel appearing for the petitioner submits that the total disputed amount of tax as per assessment as reflected from the appellate order dated 5th April, 2024 is Rs.17,07,367/- and the petitioner has paid Rs.16,98,942/-. After payment of tax, the petitioner preferred an appeal on 27th January, 2024 without making payment regarding 10% of the demand under dispute as the prerequisite for filing an appeal. As the petitioner was under the impression that as he has paid Rs.16,98,942/- for disputed amount of tax of Rs.17,07,367/-, the appellate authority would hear the appeal without making the demand for requisite deposit.

The appellate authority after hearing the appeal, on 5th April, 2024 has dismissed the appeal for non-payment of prerequisite deposit.

Being aggrieved with the order dated 5th April, 2024, the writ petitioner has preferred this writ petition.

Learned counsel for the State is present.

Heard learned counsel for the parties.

As the petitioner has already paid more that 95% of the demand made in the assessment order, the appellate authority being the respondent No.2 in the instant application (Senior Joint Commissioner (Appeal), State Goods and Services Tax, Kolkata South) is requested to hear the appeal afresh within a period of three months from date. The order of the appellate authority dated 5th April, 2024 is quashed and set aside.

The writ petition being WPA 17801 of 2024 is disposed of.

There shall be no order as to costs.

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

(Rajarshi Bharadwaj, J.)