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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20159 of 2024

Made Easy Education Private Limited
Versus
The Assistant Commissioner of State Tax, Baruipur
Charge & Ors.

Mr. Akshat Agarwal
... For the petitioner.

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

1. Challenging an order passed under Section 107 of the CGST/WBGST Act, 2017 (hereinafter referred to as the “said Act”) dated 29th May, 2024, the instant writ petition has been filed.
2. Mr. Agarwal, learned advocate appearing on behalf of the petitioner would submit that being aggrieved by an order dated 10th April, 2023, passed under Section 73 of the said Act, for the tax period July, 2017 to March, 2018, an appeal was filed before the appellate authority under Section 107 of the said Act by making payment of pre-deposit. Unfortunately, there was a delay in filing the appeal and the appeal stood rejected on such ground. He submits that the petitioner has been rendered remediless since, the Appellate Tribunal under Section 112 of the said Act is yet to be constituted. He

insists that this Hon'ble Court may be pleased to hear out the matter on merits or in the alternative, remand the matter to the appellate authority.

3. Mr. Siddiqui, learned Additional Government Pleader enters appearance on behalf of the State respondents.
4. Having heard the learned advocates appearing for the respective parties and having considered the materials on record and taking note of the fact that the determination on merits would not only involve detailed scrutiny of records but also determination on factual issues and taking note of the fact that the Appellate Tribunal is yet to be constituted, I am of the view that it would be prudent at this stage to remand the matter to the appellate authority under 107 of the said Act subject to the petitioner's making payment of 20 per cent of the remaining amount of tax in dispute with the respondents towards additional pre-deposit and upon payment of cost of Rs.25,000/- to the Calcutta High Court Legal Services Committee.
5. If the above payment is made within 10 working days from date, the appellate authority having regard to the peculiar facts noted hereinabove and the direction passed herein, shall hear out and dispose of the appeal on merits as expeditiously as possible, preferably within a period of 12 weeks from the date of payment and on

the production of receipt thereof.

6. 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.)