

13.02.2024

Sl no. 7-9

Ct no. 2

P.M.

WPA 28541 OF 2023

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WPA 28548 OF 2023

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WPA 28554 OF 2023

Banamali Kolay & Ors

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**The Deputy Commissioner of State
Tax, Serampore Charge & Ors.**

Md. J. Khan,

Mr. T. A. Khan

Mr. Bhaskar Sengupta,

... for the petitioners

Mr. Anirban Ray, Ld. Govt. Pleader

Md. T. M. Siddiqui,

Mr. T. Chakraborty,

Mr. S. Sanyal

... for the State

Mr. Om Narayan Rai,

Mr. Guddu Singh

.... for Union of India in WPA 28541 of 2023

Mr. Ranjan Kumar Sinha,

Ms. Smita Das De

.... for respondent No. 8 in WPA 28548 of 2023

Mr. Vipul Kundalia,

Mr. Soumen Bhattacharjee

... for Union of India in WPA 28554 of 2023

Heard learned advocates appearing for the parties.

Petitioner has filed this writ petition against the impugned garnishee order passed in September, 2022 by filing these writ petitions, though the aforesaid impugned garnishee order arises out of the adjudication orders which are appellable under the statute.

There is a long delay of about more than a year in filing these writ petitions and time to file appeals

against the adjudication orders have also expired long back.

It is the case of the petitioner that petitioner is a contractor who worked for West Bengal State Rural Development Agency and huge amount of dues are against the said authority and respondent GST authority may have attached those dues against the aforesaid authority instead of bank account of the petitioner.

It is further case of the petitioner that against the said Government agency other writ petitions were filed and order has been passed for making payment to the petitioner and in spite of such order no payment has been made even after initiating contempt proceeding against the said agency.

Learned advocate representing the said State agency submits that petitioner has not complied the formalities of submitting the claim against the said agency in proper forum as directed by the writ court in those matters.

Without going into all these disputes, in view of the fact that the impugned orders of garnishee arise out of the adjudication orders which are appellable under the statute, I am not inclined to grant any relief to the petitioner except granting liberty to the

petitioner to file appeals against the impugned orders in original /adjudication order in accordance with law by making pre-deposit in each appeal on condition that petitioner shall pay a cost of Rs. 1 lakh in each appeal for inordinate delay in approaching this writ court and by making a long delay after the statutory period of filing the appeal. The appeal should be filed by the petitioner within two weeks from date of complying the statutory formalities as well as by making payment of cost of the WBGST authority concerned within the time stipulated herein . If such conditions indicated in these writ petitions are fulfilled by the petitioner within the time stipulated herein, appeals of the petitioner will be entertained by the appellate authority and shall be decided on merit and impugned orders of garnishee will be stayed till the disposal of the appeals to be filed.

It is clarified that the delay in this case has been considered in view of exceptional facts and circumstances involved.

With this observations and directions these writ petitions being WPA 28541 of 2023, WPA 28548 of 2023 and WPA 28554 of 2023 stand disposed of.

(Md. Nizamuddin, J.)