06.02.2024
Item No.08
RP
Ct. No.1

MAT 2527 of 2023
+
IA NO.CAN 1 of 2024

India Tyre & Rubber Company India Ltd. & Anr.
Vs.
State of West Bengal & Ors.

Mr. Rishi Raju
Mr. Suvranil Saha
..... for the Appellants
Mr. A. Ray, Ld. G.P.
Md. T.M. Siddiqui, AGP
Mr. T. Chakraborty
Mr. S. Sanyal
..... for State

This intra-Court appeal is directed against the order dated 28th November, 2023 passed in WPA 25758 of 2023. By the said order the learned Single Bench while entertaining the writ petition by directing affidavits to be filed directed the appellant to pay a further amount of 20% of the disputed tax within a time frame so as to entitle the petitioners for protection from any coercive action for recovery. It is not in dispute that at the time when the appellants had filed an appeal before the Appellate Authority, 10% of the disputed tax was paid. Subsequently the appeal was disposed of by the Appellate Authority and challenging the same a writ petition was filed and at the time when the writ petition was entertained the appellants had been directed to pay a further amount of 20% of the disputed tax which has been complied with by the appellants. Therefore, as of now the appellants have paid 30% of the disputed tax which is sufficient compliance of the requirement under Section 112 of the WBGST Act. Therefore, we are of the view that no further condition needs to be imposed on the appellants to be entitled for protection from coercive action by the Department for recovery. Accordingly, the appeal and the connected application are allowed and that portion of the order passed by the learned Single Bench dated 28.11.2023 directing the appellants to pay further 20% of the disputed tax is deleted and the respondent department is directed not to take any coercive action against the appellant for recovery.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(SUPRATIM BHATTACHARYA, J.)