08.03.2024
SL.01, Ct.3
R.Bhar

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Side

W.P.A. 53 of 2024

M/S. Premier Services
-Vs.-
The Senior Joint Commissioner of Revenue, Appellate Authority, Jalpaiguri Circle And Ors.

Mr. Debayan Goswami
……for the petitioner

Mr. Dilip Kumar Agarwal
……for the State

The present writ petition has been filed challenging the Assessment Order dated 28.09.2020 passed by respondent no.2 and the appellate order dated 31.03.2023 passed by respondent no.1.

After some argument, learned counsel for the petitioner seeks to withdraw the present writ petition in view of the order passed by a Division Bench of this High Court in MAT 181 of 2023 and CAN 1 of 2023 wherein the Hon'ble Division Bench has held as follows:-

> "Event of taxation under the GST Act is the supply of goods or services. Undisputedly, the event of taxation has occurred resulting in liability to tax and accordingly assessing officer has assessed the liability to tax of the appellant. We repeatedly asked the learned counsel for the petitioner to show any illegality in the impugned assessment order with regard to the assessment of liability to tax and learned counsel for the

> appellant has stated before us that there is no illegality in the assessment order in so far as the determination of liability to the tax is concerned, but the grievance of the appellant is that since tax has not been paid by the contractee, therefore, the tax imposed to the extent of non-payment by the contractee, be not recovered from the appellant.
>
> We are unable to accept the submission of learned counsel for the appellant in as much as the GST Act is a complete code to itself and payment of tax is not subject to realisation of tax by an assessee. Under the circumstances, we do not find any manifest error of law in the impugned judgment and order passed by the learned Single Judge."

Liberty is granted to the appellant to raise its objection before the concerned contractee authority or to institute appropriate proceeding in a competent Court of law for realization of the amount due from the concerned contractee department.

This Court does not wish to make any comment on the submission and leave it upon the petitioner to take all appropriate action or submit a representation for redressal of its grievance for non-payment of any amount by the contractee/government department as may be permissible in law.

As prayed for the present petition is dismissed as withdrawn.

(Gaurang Kanth, J.)