05.09.2024
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Sl. No. 212
Ct. No. 01

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

MAT 26 of 2024
With
CAN 1 of 2024

Fairdeal Metals Ltd.
-Versus-
Asstt. Commissioner of Revenue, State Tax Bureau & ors.

Mr. Sandip Choraria
..... for the appellant
Mr. Hirak Barman
Ms. Rima Sarkar
..... for the State

The Single Bench refused to entertain the reliefs claimed in the writ petition on the sole ground of the availability of an alternative remedy provided under the West Bengal Goods and Services Tax Act, 2017. The writ Court was approached by the appellant assailing an order passed by the adjudicating authority on the ground of infraction and/or deviation from the statutory provisions. The Court notices that a remedy by way of an appeal is provided under Section 107 of the said Act and, therefore, relegated the appellants to exhaust the said remedy provided in the Statute.

The counsel for the appellant submits that there has been a gross illegalities and/or irregularities in the order ofthe adjudicating authorities in not complying the mandates provided under the Statute; therefore the order per se is illegal having based on an extraneous factors unrelated and/or unconnected with the alleged omission.

Be that as it may, the remedy by way of an appeal is provided under Section 107 of the said Act and in our opinion, all such points can be canvassed before the said appellate authorities. We are conscious of the well settled proposition of law enunciated in the catena of decisions that mere existence of alternative remedy does not bar the jurisdiction exercised by the High Court under Article 226 of the Constitution of India. However, the Court has imposed a self-restraint in entertaining the writ petitions if there is a statutory remedy provided to the litigant. It is a rule of discretion than of compulsion. It is not obligatory on the part of the writ Court to entertain the writ petition despite the existence of an alternative remedy but such discretion should be exercised judiciously and within the parameters of law. All the point raised in the writ petitions are amenable to be adjudicated by the appellate forum provided in the said Statute and, therefore, it cannot be said that the petitioner would be precluded for raising such issues in the appeal.

The appellate Court should be slow and circumspect in interfering with the discretionary order passed by the Single Bench unless such decision is tainted with unreasonability, irrationality and against the settled principles of law. We do not find that the order of the single bench warrants any interference.

The appeal is thus dismissed. The connected application being CAN 1 of 2024 is also dismissed.

However, the dismissal of the appeal shall not prevent the appellant to exhaust the remedy provided in the said Statute and in the event, such approach is made, the observation made hereinabove if incidentally or accidentally touching upon the merit, shall not have any persuasive impact therein.

(Harish Tandon, J.)

(Apurba Sinha Ray, J.)