21.04.2025
Item No.
AD 3
Saswata

WPA 1947 of 2025

Ajit Kumar Bothra
versus
Assistant Commissioner of State Tax & Ors.

Mr. Akshat Agarwal
...For the petitioner
Mr. Anirban Ray, Ld.GP
Mr. Md. T.M. Siddiqui, Sr. Adv.
Mr. T.Chakraborty
Mr. S. Sanyal
Mr. D. Sahu
..For the State

1. Challenging the order dated 3rd January 2025 rejecting the appeal under Section 107 of the CGST/WBGST Act, 2017 (hereinafter referred to as the "said Act") in respect of the tax period April 2018 to March 2019, the instant writ petition has been filed. The writ petition also questions the attachment of the petitioner's bank account.

2. Having heard the learned advocates appearing for the respective parties and noting the fact that no personal hearing was offered to the petitioner as reflected in the show cause notice dated 12th September 2023, though in the order dated 5th March 2024 it has been stated that the Registered Tax Payer had failed to give any reply or avail the opportunity of personal hearing and that the appeal has been dismissed on the ground of limitation without there being adjudication on merit, I am of the view that having regard to the scheme of the Act which permits the registered tax payer a further opportunity to challenge the adjudication order and since, the appellate tribunal is yet to be constituted, the matter should be remanded back to the appellate authority for its adjudication on merits.

3. Such direction is necessary since ordinarily for this Court to examine a challenge on merit, this Court would be required to go through the records which are, however, all available electronically on the portal and would be required

to be downloaded and placed before the Court, on the contrary the appellate authority is far more equipped to go through such records on the portal itself.

4. Having regard thereto, while setting aside the order dated 3rd January 2025, I remand the matter back to the appellate authority for a decision on merits.

5. Further, taking note of the fact that an amount of Rs.1,10,757/- has been paid by the petitioner towards pre-deposit and in addition thereto Rs.18,79,96/- has already been recovered from the petitioner and considering the scheme of the said Act which authorizes a RTP to maintain an appeal upon payment of 10 per cent of the amount of tax in dispute, I am of the view that the order of attachment of the petitioner's bank account which has been effected vide order issued in form GST DRC – 13 dated 19th September 2024, cannot be sustained and the same is accordingly set aside.

6. With the above observations and directions, the writ petition is disposed of.

7. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(*Raja Basu Chowdhury, J.*)