

11.06.2025
sayandeep
Sl. No. 06
Ct. No. 05

WPA 2160 of 2025

I-Karb E-Sol Private Limited & anr.
Vs.
The Joint Commissioner of State Tax Behala Charge &
ors.

Mr. Jawed Ahmed Khan
Mr. Talha Ahmed Khan
Mr. Bhaskar Sengupta

.... for the petitioners

Mr. Anirban Ray, Ld. GP
Mr. Md. T. M. Siddiqui, Sr. Advocate
Mr. Tanoy Chakraborty
Ms. Sumita Shaw
Mr. Saptak Sanyal

..... for the State

Mr. Ranjan Kumar Sinha
Mr. Biswajit Maity

....for the respondent No. 5

1. The affidavit-of-service filed in Court today is taken on record.
2. Challenging, *inter alia*, the order dated 29th August, 2024 refusing to entertain the appeal by reasons of failure on the part of the petitioners to make payment of pre-deposit as is required under Section 107(6) of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act"), the instant writ petition has been filed.
3. Challenging the order passed under Section 73 of the said Act dated 20th March, 2024 for the tax period of April, 2018 to March, 2019 which was preceded by a show-cause notice dated 18th December, 2023, an appeal was filed before the appellate authority under Section 107 of the said Act. The petitioners did not comply with the mandatory requirement for payment of pre-deposit and on the contrary by letter dated 20th August, 2024 has expressed that the petitioner no.1 was on the verge of financial catastrophe and had huge financial crunch and liabilities, accordingly the petitioners did not make payment of the 10% of the pre-deposit and in such

circumstances had called upon the appellate authority to hear out the appeal without payment of the pre-deposit.

4. Learned advocate representing the petitioners has drawn attention of this Court to the provisions of Section 107(12) of the said Act and would submit the order impugned is an unreasoned order. Although, the appellate authority was duty bound while dismissing the appeal to state the points of determination and the decision thereon, and to provide reasons for such decision, the same has not been done. The aforesaid order is in violation of the specific statutory provision governing disposal of appeals by the appellate authority. The above order cannot be sustained and should be set aside.
5. Having heard the learned advocate for the parties, I may note that the petitioner no.1 is a registered tax payer and is bound by the provisions of the said Act. The petitioner had participated in the adjudication process and the proper officer had passed an order under Section 73 of the said Act on 20th March, 2024. The petitioners had preferred an appeal challenging the said order. Although, the learned advocate for the petitioners insists that the appellate authority was duty bound to dispose of the appeal by passing a reasoned order having regard to the provisions contained in Section 107(12) of the said Act, I however, find that in terms of the provisions contained in Section 107(6) of the said Act, the appellate authority could not have accepted the appeal filed by the petitioner unless, the petitioner no.1 who was the appellant had paid the amount of tax, interest, fine and penalty arising from the impugned order as admitted by him and a sum equal to 10% of the remaining amount of tax in dispute arising out of the

order (subject to maximum of 25 crores of rupees) in relation to which the appeal has been filed. The language of Section 107(6) of the said Act is distinct and clear and mandates that no appeal shall be filed under sub-Section 1 unless the appellant has paid the amount as indicated hereinabove.

6. If the petitioner did not comply with the above directive for mandatory pre-deposit, there is no scope for the appellate authority to entertain the appeal.
7. Since, the appeal was not entertained, question of the appellate authority disposing the appeal by stating the points of determination and the decision thereon could not have arisen. The petitioners have not been able to make out any special case for entertaining the writ petition.
8. Having regard thereto, I find no merit in the writ petition. The writ petition is accordingly dismissed without any order as to costs..

(Raja Basu Chowdhury, J.)