

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5017 of 2025

Merc Infra India Private Limited & Anr.
Versus
State of West Bengal & Ors.

Ms. Neil Basu
Mr. Sankha Biswas
Mr. Ankan Das

... For the petitioners.

Mr. A. Roy, Ld. GP
Mr. N. Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal

... For the State.

1. The petitioners had invoked the jurisdiction of this Court initially by filing a writ petition being WPA 18056 of 2024, challenging the order dated 12th April, 2024 passed by the proper officer under Section 73(9) of the WBGST/CGST Act, 2017 (hereinafter referred to as the “said Act”) in respect of the tax period April, 2018 to March, 2019.

2. By an order dated 9th September, 2024 this Court had permitted the petitioners to prefer an appeal from the aforesaid order before the appellate authority under Section 107 of the said Act. Since, then the petitioners had preferred an appeal and the appeal has been disposed of by the order dated 18th December, 2024.

3. Challenging the said order a writ petition has been filed on 1st March, 2025, *inter alia*, on the ground that the

appellate Tribunal was yet to be constituted. When the matter has come up in the list, the petitioners seek to withdraw the writ petition by citing the Circular issued by the Principal Commissioner GST dated 11th July, 2024 whereby the petitioners can ward off the payment of the demand by making payment of an amount equal to the amount of pre-deposit as required under Section 112(8) of the said Act, and by filing an undertaking that they shall file an appeal as and when the Appellate Tribunal is constituted.

4. Admittedly, on the date when the writ petition was filed the Circular dated 11th July, 2024 had already been issued. The petitioners have successfully delayed in making payment of the amount which has been determined by the authorities and the writ petition is now being sought to be withdrawn.

5. Having regard to the aforesaid, I am of the view that the petitioners cannot be permitted to invoke the extraordinary jurisdiction of this Court to delay the revenue deposit. However, since the petitioners do not wish to proceed with the writ petition and seek to withdraw the same, let the writ petition be dismissed as withdrawn subject to payment of costs of Rs.1,00,000/- to be paid by the petitioners to the GST authorities.

(Raja Basu Chowdhury, J.)