02.07.2025
Item No. 06
Ct.-05
Sayandeep

WPA 12575 of 2025

K.M. Industries & Anr.
versus
The Deputy Commissioner, State Tax, Shibpur Charge & Ors.

Mr. Anil Kumar Dugar
Mr. Rajarshi Chatterjee
Mrs. Suman Sahani
....For the petitioners

Mr. Anirban Ray, Ld. GP
Mr. Md. T.M.Siddiqui, Ld. AGP
Mr. Nilotpal Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...For the State

1. Challenging the order dated 30th May, 2025 dismissing the appeal under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act) on the ground of non-payment of pre-deposit as is required in terms of Section 107(6) of the said Act, the instant writ petition has been filed.

2. Today, Mr. Dugar, learned advocate appearing for the respondents at the very outset has drawn attention of this Court to the provision of Section 107(6) of the said Act and has submitted that ordinarily, unless the pre-deposit accompanies the appeal, no appeal can be filed and having regard thereto, since the petitioners did not tender the pre-deposit in terms of Section 107(6) of the said Act at the time of filing of the appeal, the appeal was rightly rejected. However, according to him although, the petitioners, had paid the pre-deposit though belatedly, on 15th November, 2024, the factum of such deposit was never taken note of by the appellate authority. In any event, he submits that the balance amount has already been recovered.

3. Mr. Sanyal, learned advocate for the respondents also does not deny the factum of recovery of the balance amount. According to him, the petitioners did not bother to response to the show-cause notice to clarify the position as regards payment of pre-deposit.

4. Heard learned advocates appearing for the respective parties and considering the materials on record. It is an admitted position that being aggrieved with the order dated 28th March, 2024 passed by the proper officer under Section 73 of the said Act for the tax period of April, 2018 to March, 2019, the above appeal was filed on 13th May, 2024. Although, the appeal was within the prescribed period, however, the appeal was not filed along with the pre-deposit.

5. As rightly pointed out by Mr. Dugar, learned advocate representing the petitioners which has been acknowledged by Mr. Sanyal, learned advocate representing the State that the pre-deposit was belatedly deposited by the petitioners and such fact would also corroborate from electronic liability ledger of the the petitioner No. 1. Having regard thereto, and noting that the appellate tribunal is yet to be constituted, I am of the view that at this stage, it shall be prudent to remand the matter back to the appellate authority for re-hearing of the aforesaid appeal in accordance with law. Further taking note of the submissions made by Mr. Dugar that the respondents have realized the entire outstanding demand in furtherance to the demand raised by the respondents in form GST DRC 07 dated 28th March, 2024, I am of the view that the respondents should forthwith credit the petitioners' electronic credit ledger with the relevant amount which has been recovered in enforcement of the order passed in DRC 07 on 28th March, 2024, leaving aside the amount of pre-deposit. The aforesaid re-credit of the amount to the petitioners credit ledger should be made within a period of one week from the date of communication of this order and in any event, prior to taking up hearing of the appeal. The factum of re-credit also must be intimated to the petitioners either electronically or by e-mail.

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

(Raja Basu Chowdhury, J.)