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21.02.2025
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18683 of 2024

With
CAN 1 of 2025
And
CAN 2 of 2025

VSP Udyog Private Limited & Anr.
Versus
Union of India & Ors.

Mr. Kumarjit Banerjee
Mr. Sanchari Chakraborty
Ms. Akanksha Chowdhury
... For the petitioners.

Mr. Prithu Dudhuria
... For Union of India.

Mr. Vipul Kundalia, Sr. Advocate
Mr. Tapan Bhanja
Mr. Dhirodatto Chaudhuri
... For the CGST authorities.

1. Challenging four several orders in original passed under the provisions of Central Excise Act, 1944, two of which are dated 14th March, 2024 and the other two are dated 19th March, 2024, the instant writ petition has been filed.
2. Since, it appears that the petitioners have also invoked the statutory remedy and have filed appeals before the Commissions of Appeals and though it is contended that by reasons of pendency of the writ petition, the petitioners did not put in the pre-deposit as is required for maintaining such appeals and had later by communications all dated 30th September, 2024 sought

for leave to withdraw such appeal, as would appear from the supplementary affidavit filed in Court today, which is taken on record, and noting the submissions made by Mr. Bhanja, learned advocate led by Mr. Vipul Kundalia, learned senior advocate, that this Hon'ble Court in exercise of its extraordinary writ jurisdiction should not entertain the writ petition, without the petitioners first exhausting their statutory remedy, I am of the view that the petitioners should, at this stage, proceed and exhaust its remedy before the Commissioner of Appeals. Although, there appears to be four letters issued by the petitioners addressed to the Commissioner of Appeals all dated 30th September, 2024 seeking withdrawal of the appeal, no order appears to have been passed by the Commissioner of Appeals thereon.

3. Be that as it may, considering the fact that the petitioners had already applied before the statutory authority by filing appeals and at this stage since, Mr. Banerjee learned advocate representing the petitioners would submit that the petitioners are ready and willing to pursue the aforesaid appeal provided the communications dated 30th September, 2024 are permitted to be withdrawn, I am of the view that in the fitness of things and not to render the petitioners remediless, the petitioners should be permitted to

pursue the appeal filed by them. Accordingly, I permit the petitioners to withdraw the letters dated 30th September, 2024.

4. The Commissioner of Appeals is directed to if necessary by passing appropriate orders to restore the appeal, hear out and dispose of the appeals in accordance with law, subject to compliance of statutory formalities.
5. In the event, the petitioners apply before the Commissioner of Appeals within a period of four weeks from date, the Commissioner of Appeals, having regard to the observations made hereinabove, upon permitting the petitioner to withdraw the letters dated 30th September, 2024 and if necessary by restoring the appeals, shall hear out and dispose of the appeal on merits, subject to compliance of statutory formalities by the petitioners.
6. With the above observations and directions the writ petition and the connected applications are disposed of.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)