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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23544 of 2024

Rockfield Mining and Minerals Private Limited & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Himangshu Kumar Ray
Mr. Subhasis Podder
Ms. Shiwani Shaw
Mr. Animitra Roy
Mr. Piyas Chowdhury
... For the petitioners

Mr. A. Ray, GP
Mr. T.M. Siddique, AGP
Mr. T. Chakraborty,
Ms. S. Shaw
Mr. S. Sanyal
.. For the State

1. Challenging the order passed under Section 107 of the West Bengal/Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "said Act") and the demand raised by the respondents in Form GST APL -04 dated 20th March, 2024, arising out of an order passed under Section 73 of the said Act dated 11th April, 2023, in respect of the tax period July 2017 to March 2018, the present writ petition has been filed.

2. By an order dated 13th February, 2025, a Coordinate Bench of this Court had entertained the writ petition and stayed the demand subject to the petitioners' complying with the direction as

regards payment of 10% of the balance amount of tax in dispute as provided for therein.

3. Today, Mr. Ray, learned advocate representing the petitioners by placing before this Court the West Bengal Goods and Services Tax (Amendment) Act, 2024, as notified and published in the Kolkata Gazette on 10th January, 2025 would submit that by way of insertion of Section 128A in the said Act, both interest and penalty concerning the notice/s or orders passed under Section 73 of the said Act or an appellate order passed under Section 107 of the said Act pertaining to the period 1st July, 2017 to 31st March, 2020 have been waived. He would submit having regard to the aforesaid the petitioners seek leave to withdraw the aforesaid writ petition to apply before the authorities for waiver of interest and penalty subject to the petitioners' complying with the pre-condition for availing such waiver in the form of payment of the entire tax due.

4. Having heard the learned advocates appearing for the respective parties and noting that Section 128A has been inserted in the said Act so as to waive interest or penalty or both in respect of the demand raised under Section 73 of the said Act

or demands made on the basis of appellate order under Section 107 of the said Act, pertaining to the tax period 1st July, 2017 to 31st March, 2020, subject to the registered tax prayer complying with demand for payment of tax in full, and since the petitioners seek to avail such benefit and noting that the matter relates to the tax period July, 2017 to March 2018, leave is granted to the petitioners to withdraw the aforesaid writ petition for availing the benefit of Section 128A of the said Act.

5. In view thereof, the direction contained in the order dated 13th February, 2025 directing the petitioners to make payment of 10% of the balance amount of tax in dispute stands recalled.

6. The direction for unconditional stay as provided for in the said order also stands vacated.

7. The writ petition accordingly stands dismissed as withdrawn.

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.)