N.22Sl

151/CL
15.12.25
Sl-09
Ct.551
(S.R.)

WPA 25508 of 2024

Shaikh Aslam Ali @ Sk Ali Aslam
v.
Deputy Commissioner of State Tax,
Diamond Harbour Charge & Ors.

Mr. Avra Mazumder
Mr. Suman Bhowmik
Ms. Alisha Das
Ms. Elina Dey
Ms. Maitreyee Naskar ... for the petitioner.

Mr. S.K. Dutta
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal ... for the State.

1. This writ petition assails an order dated November 16, 2022 passed under Section 74 of the WBGST Act, 2017/CGST Act, 2017 (hereinafter referred to as the 'said Act of 2017').
2. Heard the learned advocates appearing for the respective parties.
3. It has been fairly submitted by Mr. Mazumder, learned advocate appearing for the petitioner that although the order dated November 16, 2022 is appealable before the appellate authority under Section 107 of the said Act of 2017, yet the petitioner could not approach the appellate authority since the petitioner was seriously indisposed and was under dire financial straits. It is submitted that since the appellate remedy required a pre-deposit to be made, the petitioner

could not immediately approach the appellate forum without first being in a position to put in the pre-deposit.

4. Mr. Mazumder invites attention of this Court to an order dated September 11, 2025 passed by a Coordinate Bench of this Court in WPA 25558 of 2024 in the petitioner's own case where another order of the same date i.e. November 16, 2022 passed under Section 74 of the said Act of 2017 had been challenged. The said writ petition was disposed of by this Court by observing, *inter alia,* as follows: -

> *"4. In the light of the above, in my view, though there is no scope to entertain the writ petition, however, at the same time the petitioner should not be rendered remediless and the determination already made ought to be tested, by the appellate authority, especially when at present the appellate tribunal is yet to be constituted.*
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> *5. Thus, in the event, the petitioner prefers an appeal within a period of four weeks from date with the appellate authority, the appellate authority upon ascertaining that a sum in excess of 20 per cent of the amount in dispute has already been recovered from the petitioner or alternatively by seeking for a pre-deposit of 10 percent of the tax in dispute, shall hear out the appeal on merits in accordance with law.*
>
> *6. Since, the petitioner has approached this Court belatedly, it shall also be prudent to direct the petitioner to make payment of cost of*

> *Rs.50,000/- to be paid by the petitioner to the High Court Legal Services Committee.*
>
> *7. It is made clear that upon payments of costs as aforesaid the petitioner shall be at liberty to seek release of the order of attachment from the appellate authority, provided an amount in excess of 10 percent of the Tax in dispute is either paid or recovered and the appeal is filed within the time provided herein."*

5. The facts of this case are similar to those before the Coordinate Bench of this Court in WPA 25558 of 2024. In such view of the matter, there is no reason for this Court to take a different view.

6. Accordingly, if the petitioner prefers an appeal within a period of four weeks from date before the appellate authority by fulfilling the condition of statutory pre-deposit in terms of Section 107(6) of the said Act of 2017 then the appellate authority shall hear out the petitioner's appeal on merits, in accordance with law.

7. Needless to mention that in terms of the order dated September 11, 2025 passed in the petitioner's own case, the petitioner shall be liable to pay costs to the tune of Rs.50,000/- to the High Court Legal Services Committee prior to the petitioner preferring the appeal before the appellate authority.

8. Upon payment of costs, as aforesaid, the petitioner shall be at liberty to seek lifting of the order of attachment from the appellate authority, provided

an amount equivalent to 10% of the tax in dispute has been paid as pre-deposit and the appeal has been filed within the time provided hereinabove.

9. WPA 25508 of 2024 stands disposed of with the above observations.

10. There shall, however, be no order as to costs.

11. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)