**Form No. J(2)**

CALCUTTA HIGH COURT
IN THE AT CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

Present:
**The Hon'ble Justice Saugata Bhattacharyya**

**W.P.A. 599 of 2025**

**M/s Sawariya Developers Pvt. Ltd. & Ors**
**-vs-**
**The Senior Intelligence Officer, Directorate General of GST Intelligence, Siliguri Zonal Unit, Siliguri & Ors.**

For the Petitioners : Ms. Rita Mukherjee
Mr. G. Sha
Ms. Tannu Agarwal

For the respondent nos. 2, 3, 5, 6 & 7 : Mr. Ratan Banik
Mr. Biswa Raj Agarwal

Heard on : 30.07.2025

Judgment on: 30.07.2025

**Saugata Bhattacharyya, J.:**

1. Matter is heard at length in presence of the learned advocates representing the parties.

2. Learned advocate representing CGST authority has filed an affidavit-in-opposition and an affidavit-in-reply has also been filed on behalf of the petitioners today and same are taken on record.

3. In the writ petition order of the adjudicating authority under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act of 2017) dated 24th December, 2024 passed by the adjudicating authority is questioned. Vide said impugned order dated 24th December, 2024 adjudicating authority confirmed the demand of Rs. 1,93,45,268/- and consequently passed order for recovery of said sum from the petitioner namely M/s Sawariya Developers Pvt. Ltd under the provisions of Section 74 of the CGST Act, 2017.

4. Ms. Rita Mukherjee, learned advocate representing the petitioners on virtual mode has submitted that the impugned order dated 24th December, 2024 is not tenable since relevant documents which were taken into consideration by the adjudicating authority while passing said impugned order were not supplied to the petitioners which prevented the petitioners from making meaningful deliberation before the adjudicating authority. Such departure made by the adjudicating authority while considering the issue prejudiced the petitioners resulting in issuance of the order dated 24th

December, 2024. Prayer is made for cancellation of the order of the adjudicating authority dated 24th December, 2024. It is also contended that even after filing affidavit in opposition it has not been substantiated that the relevant documents which were taken into consideration by the adjudicating authority were supplied to the petitioners.

5. On the contrary, learned advocates representing CGST authority has made submission in order to defend the order of the adjudicating authority dated 24th December, 2024 and it is also contended that in terms of Section 107 of the said Act of 2017 the order dated 24th December, 2024 is an appealable order. It is submitted that in view of existence of appeal provision present writ petition may not be entertained.

6. Another limb of submission which has been advanced on behalf of CGST authority is confined to denial of the contention raised on behalf of the petitioners that relevant documents were not supplied by the CGST authority to the petitioners before passing order dated 24th December, 2024. It is submitted that the contention raised regarding failure of the concerned

CGST authority in supplying the relevant documents is baseless.

7. What is important in deciding the lis is presence of appeal provision under Section 107 of said Act of 2017. Question arises whether in spite of availability of appeal provision the writ Court at this stage would embark upon to decide the grievance as ventilated by the petitioners. It is trite law that when there is alternative efficacious speedy remedy available under the statute writ Court ought not entertain writ petition ignoring the appeal provision. In this regard reliance is placed on the judgment of the Hon'ble Supreme Court, reported in ***(2013) 10 SCC 83 (General Manager, Sri Siddeshwara Co-operative Bank Limited & Anr. Vs. Ikbal & Ors.).***

8. At the same time it needs to be taken into consideration that point of violation of natural justice is raised in this writ petition since concerned GST authority failed to supply relevant materials to the petitioners before passing order on 24th December, 2024 as alleged. Considering such point raised on behalf of the petitioners this Court finds it apposite to keep this issue

alive and grant the petitioners leave to prefer appeal under Section 107 of the said Act of 2017.

9. Leave is granted to the petitioners to prefer appeal under Section 107 of the said Act of 2017 questioning the order of the adjudicating authority dated 24th December, 2024 by fortnight from date. If such appeal is preferred within the aforesaid time interim order which was passed by a coordinate bench vide order dated 1st May, 2025 shall continue till fortnight after disposal of appeal.

10. Time consumed from the date of filing this writ petition till today shall be excluded while considering the prayer of the petitioners for condonation of delay in preferring appeal under Section 107, if such prayer for condonation of delay is made before the Appellate Authority.

11. It is made clear that all points taken in this writ petition are kept open and to be decided by the Appellate Authority.

12. Accordingly, writ petition stands disposed of.

13. Order passed today is confined to the petitioners only since on perusal of the impugned order dated 24th

December, 2024 it appears that the said order covers other organizations/assessees.

14. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

**(Saugata Bhattacharyya, J.)**

**03/Ct.02**
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