JPD-4
Ct. No. 01
19.08.2025
AKG

CALCUTTA HIGH COURT
In The Circuit Bench at Jalpaiguri
Appellate Side

MAT 34 of 2024

Deputy Commissioner, State Taxes, Central Section & Ors.
Vs.
M/s/ G/L Kundu & Sons Steel Private Limited

Mr. Momenur Rahaman,
Mr. Sumit Kumar

… for the Appellant

Ms. Keya Kundu

…for the Respondent

An adjournment is prayed for on behalf of the writ petitioner/respondent. However, in view of the order proposed to be passed in the present appeal, the prayer for adjournment is declined.

The writ petitioner approached the learned Single Judge by filing a writ petition challenging an order passed in appeal under Section 107 of the West Bengal Goods and Services Tax Act, 2017. The learned Judge disposed of the writ petition with the following direction:

> **"In view thereof, this Court is of the considered view that the following order will protect the interest of the petitioner as well as the Revenue.**

> **WPA 2462 of 2023 is disposed of by passing the following orders- (a) the period of filing the appeal by the petitioner will stand extended as indicated in Clause 4.2 of the Circular dated 18th March 2020; (b) the order impugned in this writ petition shall not be given effect to until two weeks after the period prescribed for filing an appeal as under Clause 4.2 of the Circular dated 18th March 2020 is over.**
>
> **It is, however, made clear that the petitioner will be at liberty to raise all contentions which have been raised in this writ petition before the Appellate Tribunal.**
>
> **There shall be no order as to costs."**

The State has preferred the present appeal, assailing the order of the learned Single Judge, on the ground that, in disposing of the writ petition, the learned Judge failed to consider the provisions of Section 112(8)(b) of the West Bengal Goods and Services Tax Act, 2017. This provision mandates that an appellant is required to make a pre-deposit as a condition precedent to maintain an appeal before the Appellate Tribunal constituted under Section 109 of the said Act.

A plain reading of the impugned order reveals that, although the issue of pre-deposit was raised and argued by the respective parties, the learned Single Judge did not adjudicate upon the same. The learned Judge merely extended the period of limitation and stayed the operation of the order passed in appeal under Section 107 of the Act, albeit for a limited period.

It is well settled that the right to appeal is a statutory right, and such a right may be made subject to conditions imposed by the statute itself. Where the statute stipulates pre-deposit as a mandatory requirement for the maintainability of an appeal, such a condition must be complied with.

In light of the above clarification, the appeal stands disposed of.

MAT 34 of 2024 is accordingly disposed of.

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

(Partha Sarathi Chatterjee, J.)   (Kausik Chanda, J.)