Item no.5
14.08.2025
Saswata

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

WPA 1581 of 2025

Mphasis Engineers Cooperative Contract and Construction Society Ltd.
-versus
The Senior Joint Commissioner State Tax, Appellate Authority, Jalpaiguri & Ors.

Mr. Prasenjit Das
Ms. Khusi Kundu
...For the Petitioner
Mr. Pretom Das
Ms. Rima Sarkar
...For the State

1. Challenging an order dated 30th September, 2024 passed by the appellate authority under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act), the instant writ petition has been filed.

2. Records would reveal that the determination had been made under Section 74 of the said Act vide order dated 17th April, 2023 for the tax period of July 2017 to March 2018. Challenging such order, a writ petition was filed before this Court which was registered as WPA 898 of 2024. On contest, by an order dated 20th May, 2024, a co-ordinate Bench of this Court had permitted the petitioner to prefer an appeal from the aforesaid order with a further direction that the petitioner shall be entitled to the adjustment of Rs. 1,00,099/- which had been

recovered from the petitioner on 8th March, 2024. Pursuant to such leave, the petitioner had preferred an appeal before the appellate authority and the aforesaid amount was adjusted against the pre-deposit amount of Rs. 3,18,692/- as would corroborate from the form GST ALP 01. The petitioner, however, despite preferring the appeal chose not to appear before the appellate authority. In fact despite repeated notice for personal hearing which were uploaded on the portal, the petitioner did not appear. Although, the appellate authority had taken note of the order passed by the co-ordinate Bench on 20th May, 2024, however, the appellate authority appears to have rejected the appeal by confirming the order passed by the adjudicating authority under Section 74 of the said Act and a fresh demand in APL 04 dated 30th September 2024 was raised.

3. The figures appearing in form DRC 0-7 dated 17th April, 2023 match with the subsequent demand raised by the respondents in APL 04 dated 30th September, 2024. It is, therefore, apparent that the direction issued by the co-ordinate Bench of this Court on 20th May, 2024 was not even considered by the appellate authority. Although Ms. Sarkar would submit that the above amount has been adjusted in the electronic liability register, however, in my view, the appellate authority ought not to have overlooked

the specific direction passed by the Co-ordinate Bench. On such ground, in my view, the order passed by the appellate authority cannot be sustained. The matter is remanded back to the appellate authority for a fresh consideration on merits.

4. The appellate authority is directed to hear out the appeal in accordance with law, upon providing opportunity of hearing to the petitioner, as expeditiously as possible preferably within a period of 4 weeks from the date of communication of this order.

5. The consequential demand raised by the respondents in APL 04 of dated 30th September 2024 and the order passed by the appellate authority under Section 107 of the said Act are accordingly set aside.

6. With the above observations and directions, the writ petition is disposed of.

7. There shall be no order as to costs.

8. Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Raja Basu Chowdhury, J.)