30.06.2026
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Sl. No. 06
Ct. No. 03

WPA 28378 of 2023

Vinod Kumar Saraff & anr.
Vs.
Assistant Commissioner of State Tax & ors.

Mr. Abhijat Das
Mr. Anirban Chatterjee
Ms. Aratrika Roy
…. for the petitioners

Ms. Manju Agarwal, Ld. AGP
Mr. Bijitesh Mukherjee
Ms. Manasi Mukherjee
….. for the State

1. The matter has come up under the heading "Extension of Interim order". However, having regard to the subsequent events which are narrated herein below, the matter is taken up for final disposal.
2. Challenging appellate order dated 24th August, 2023 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. The petitioners are in fact aggrieved with the order of cancellation of registration which has been effected by order dated 28th October, 2022. Though an appeal was preferred therefrom under Section 107 of the said Act, the appellate authority did not accede to the prayer of the petitioners and had dismissed the appeal

by the order impugned. Though the provisions of Section 112 of the said Act provides for further opportunity for preferring an appeal before the appellate tribunal, however, since at the stage when the writ petition was filed, the appellate tribunal was yet to be constituted this Court by order dated 20th December, 2023 had been pleased to entertain the writ petition. It was further provided in such order that if the petitioners pay an amount of 20% of the amount of the tax in dispute, no coercive action shall be taken against the petitioners till 31st March, 2024. The petitioners claim to have paid the aforesaid amount on 2nd January, 2024. Consequent thereupon, the interim order was extended by order dated 28th March, 2024 and the same is subsisting.

3. The learned advocates for the parties would however, jointly submits before this Court that the appellate tribunal had not only been constituted but the same has already become functional. Having regard thereto, I am of the view that it shall be prudent at this stage to dispose of the writ petition by granting liberty to the petitioners to approach the appellate tribunal tribunal, within a period of four weeks from date. If such appeal is filed, having regard to the observations made in this order

and noting the factum of payment of 20% of the amount of tax in dispute by the petitioners, the appellate tribunal shall hear out and dispose of the appeal on merits in accordance with law.

4. The respondents are accordingly restrained from taking any coercive action against the petitioners for a period of 4 weeks from date so as to enable to petitioners to file the appeal. The parties shall be at liberty to rely on the pleadings filed before this Court.

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

(Raja Basu Chowdhury, J.)