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Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 29673 of 2025

RSH Amit Realty Development LLP & Anr.
Versus
The Deputy Commissioner of Revenue,
State Tax, Ballygunge Charge & Ors.

Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. Piyush Khaitan
Mr. Tulika Roy
… For the petitioners.

Mr. Subhadip Biswas
… For the State.

1. Challenging the appellate order passed under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") dated 9th December, 2025, arising out of a determination made under Section 73 of the said Act dated 24th February, 2025, the instant writ petition has been filed.

2. Mr. Kanodia, learned advocate representing the petitioners at the very outset would submit that the determination made by the proper officer was beyond the show cause. According to him, the adjudication order passed under Section 73 of the said Act is without jurisdiction and, as such, this Court which otherwise has the competence, should entertain the writ petition.

3. Having heard the learned advocates appearing for the respective parties, in the instant case, I find that though the petitioners claim that the order passed under

Section 73 of the said Act was beyond the show cause, however, on the adjudication order being passed the petitioners had preferred an appeal and a decision has already been made by the appellate authority. The petitioners have a further appellate remedy before the Appellate Tribunal. However, the parties would jointly submit that though the Tribunal has been constituted, the same is yet to start hearing matters. In this context, I may note that time to file appeal under the provisions of the said Act vide notification dated 17th September, 2025 has duly been extended till 30th June, 2026 in respect of the orders communicated before 1st April, 2026. The statute has already been amended once so as to reduce the burden on the assessee by reducing pre-deposit of the amount of tax in dispute from 20% to 10%.

4. Since, an alternative remedy is available and the time to file appeal is yet to expire, I am of the view that in the facts of this case, it shall not be appropriate for this Court to enter into the issue raised in the petition at the first instance.

5. Thus, without going into the questions raised by the petitioners and by leaving it open to the petitioners to challenge the same before the Appellate Tribunal, the Court refuses to entertain this writ petition.

6. In the event, the petitioners prefer an appeal within the aforesaid period, the respondents shall not be entitled to recover the demand due until expiry of the period for preferring the appeal, having regard to Section

78 of the said Act unless, the respondents/proper officer considers it expedient in the interest of revenue, by recording reasons for the same.

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

Urgent Photostat certified copy of this order, if applied for be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)