M/S Richa Electronics v. State of U.P. and Another

WRIT TAX No. 146 of 2024 | Decision: 2024-02-12 | Allahabad High Court

Neutral Citation No. - 2024:AHC:24174-DB

Court No. - 39

Case :- WRIT TAX No. - 146 of 2024

Petitioner :- M/S Richa Electronics Respondent :- State of U.P. and Another Counsel for Petitioner :- Aditya Pandey Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh,J. Hon'ble Manjive Shukla,J.

1. Heard Sri Aditya Pandey, learned counsel for the petitioner and Sri Ankur Agrawal, learned Standing Counsel for the State.

2. Challenge has been raised to the adjudication orders dated 29.12.2023 for the F.Y. 2017-2018 and 23.12.2023 for F.Y. 2019- 2020 respectively. Both orders were passed by the respondent no. 2 under Section 73 of the UPGST/ CGST Act, 2017 (hereinafter referred to as the Act).

3. At the outset, preliminary objection has been raised by the learned counsel for the revenue as to availability of efficacious alternative remedy of appeal under Section 107 of the Act.

4. In face of such statutory alternative remedy of appeal available in the context of a dispute which has arisen, we are not impressed by the submissions advanced by the learned counsel for the petitioner that the bar of alternative remedy may be lifted as the present case involves a challenge raised to an ex-parte order which is not speaking.

5. We are not inclined to entertain the present writ petition. The grounds of challenge raised that the impugned orders are ex-parte and non-speaking; have been passed pursuant to notice uploaded under wrong heading; have been passed without issuance of due intimation under Section 73 (5) of the Act, may remain to be raised and decided on their own merits in the appropriate appeal proceedings.

6. The decision of the Supreme Court in Steel Authority of India Ltd. Vs. Sales Tax Officer, Rourkela-I Circle and others, 2008 U.P.T.C. 875 also does not persuade us to lift the bar of alternative remedy at the first stage of appeal itself. Undoubtedly, all pleas being raised by the petitioner are such as may be raised before the appellate authority as well.

7. Leaving that course open for the petitioner, interference

claimed is declined. The writ petition is accordingly dismissed. We, however, clarify that in the event the petitioner files such appeal, the same may be dealt with on its own merits without being prejudiced by any observation made in this order.

Order Date :- 12.2.2024 n.u.

(Manjive Shukla, J) (S.D. Singh, J)

2024-02-16T16:55:43+0530 High Court of Judicature at Allahabad