M/S Agarwal Steel (Proprietorship), Amethi Thru. Proprietor Mr. Devi Prasad Agarwal v. The Commissioner Goods And Services Tax (Gst) U.P. Lko. And Others

WRIT TAX No. 152 of 2023 | Decision: 2023-10-30 | Allahabad High Court (Lucknow Bench)

Neutral Citation No. - 2023:AHC-LKO:70894-DB

Court No. - 3

Case :- WRIT TAX No. - 152 of 2023

Petitioner :- M/S Agarwal Steel (Proprietorship), Amethi Thru. Proprietor Mr. Devi Prasad Agarwal Respondent :- The Commissioner Goods And Services Tax (Gst) U.P. Lko. And Others Counsel for Petitioner :- Onkar Pandey,Arjun Gupta Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary,J. Hon'ble Manish Kumar,J.

Heard learned counsel for the petitioner, learned counsel representing the respondent No. 1 and learned Standing Counsel representing the respondent No. 2.

Admittedly, against the order which is under challenge in this writ petition, a statutory remedy of appeal under Section 107 of U.P. Goods and Service Tax Act, 2017 is available and as such, submission of learned counsel for the respondents is that this writ petition ought not be entertained.

On the other hand, learned counsel appearing for the petitioner has submitted that rule of exhaustion of alternative remedy is not absolute and in certain cases specially where principles of natural justice have been violated, the writ petition can be entertained even in the wake of availability of a statutory alternative remedy.

Learned counsel representing the respondents have submitted in one chorus that it is not a case where principles of natural justice have been violated rather it is a case where show cause notice was issued, however, the petitioner had not responded.

Without entering into the issue as to whether the show cause notice was served and the petitioner was given opportunity of hearing or not, we are of the considered opinion that the said ground being urged by the learned counsel for the petitioner before us in these proceedings can very well be taken up before the Appellate Authority by preferring appeal under Section 107

of U.P. Goods and Service Tax Act, 2017.

We, are thus are not inclined to entertain this writ petition. We hereby dispose of this writ petition with the liberty to the petitioner to file a statutory appeal under Section 107 of U.P. Goods and Service Tax Act, 2017 or to take recourse of any other legal remedy available to him. In case any statutory appeal is preferred by the petitioner, the same shall be decided by the Appellate Authority on merit as expeditiously as possible.

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[Manish Kumar,J.] [Vivek Chaudhary,J.]

Order Date :- 30.10.2023 S. Kumar

2023-10-31T16:18:28+0530 High Court of Judicature at Allahabad, Lucknow Bench