

**Calcutta High Court  
In the Circuit Bench at Jalpaiguri  
Appellate Jurisdiction**

**W.P.A. 3265 of 2022**

Surendra Kumar Agarwal

-versus-

The Joint Commissioner of State Tax & Anr.

Mr. Vinay Shraff

Ms. Priya Sarah Paul

Mr. Sandip Guha Roy

...For the Petitioner

Mr. Subir Kumar Saha

Mr. Bikramaditya Ghosh

...For the State

The petitioner seeks to challenge the impugned order dated September 29, 2022 passed by the respondent no.1 in a statutory appeal whereby and whereunder the order of the adjudicating authority dated July 06, 2022 passed by the respondent no.2 was upheld. This statute provides that the next stage to grievance redressal forum for the petitioner is the tribunal in terms of **Section 112 of the Central and West Bengal Goods and Services Tax Act, 2017 (for short, 2017 Act).**

Mr. Vinay Shraff learned counsel appearing on behalf of the petitioner submitted that, such tribunal had not yet been constituted.

Mr. Bikramaditya Ghosh learned counsel appearing on behalf of the revenue had also confirmed such submission made on behalf of the said petitioner.

Learned counsel for the petitioner further informed this Court that there was a demand for **Rs.21,29,395/-** by the revenue authority upon the petitioner. Learned counsel for the petitioner further submitted that, such penalty had duly been deposited without prejudice to the rights and contentions to the petitioner and thereupon the relevant goods were released.

Considering the issue involved in this writ petition at the threshold this Court of the view that since the statutory tribunal is not available to the petitioner, as the same had not yet been constituted, the writ petition is maintainable at this stage.

This Court is also of the view considering the submissions made on behalf of the parties and upon perusal of the materials on record that there is no scope for any interim order to be passed. This writ petition needs to be decided on affidavits.

The respondents shall file its affidavit-in-opposition on/or before May 03, 2023. Reply, if any, thereto be filed on/or before May 20, 2023.

After completion and exchange of affidavits as directed, the parties will be at liberty to mention the writ petition for hearing before the available Circuit Bench.

**(ANIRUDDHA ROY, J.)**