

Court No. - 10

Case :- WRIT TAX No. - 1237 of 2022

Petitioner :- M/S Tulsi Ram And Company

Respondent :- Commissioner

Counsel for Petitioner :- Pooja Talwar

Counsel for Respondent :- C.S.C.

Hon'ble Rohit Ranjan Agarwal,J.

Heard Ms. Pooja Talwar, learned counsel for the petitioner and Sri R.S.Pandey, learned Standing Counsel for the State.

It is contended by learned counsel for the petitioner that mandatory pre-deposit of 10% was made by the Assessee Firm through electronic credit ledger but the Additional Commissioner, Grade-2 (Appeal)-I, Commercial Tax, Jhansi had rejected the appeal on the ground that the mandatory deposit should have been made from the cash ledger. Reliance has been placed upon the clarificatory circular, issued by Government of India, on 06.07.2022 wherein it has been clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST Laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.

The First Appellate Authority, solely on the ground that the compliance has not been made by depositing through electronic cash ledger, had rejected the appeal without deciding the issue on merit. Subsequently, on 25.6.2022, the petitioner Firm had made deposit through cash ledger.

After hearing the counsel for the petitioner as well as learned Standing Counsel, this Court finds that pre-deposit has been made by the Firm before the Appellate Authority, and the Appellate Authority shall not insist the Firm to make deposit through electronic cash ledger and shall proceed to decide the appeal on merits strictly in accordance with law.

In the result, writ petition stands **partly allowed**.

The order impugned dated 16.06.2022 passed by Additional Commissioner, Grade-2 (Appeal)-I, State Goods & Services Tax, Jhansi for the financial year 2017-18 under Section 74(9) of the Goods and Services Tax Act, 2017 is hereby set-aside. The First Appellate Authority shall decide the appeal on merit within a period of one month from the date of production of a certified copy of this order.

Order Date :- 23.9.2022

Kushal