01.09.2021
p.b.
Sl. No.26.

W.P.A. 3484 of 2021

Mohammad Faruk Hossain
Vs.
Joint Commissioner of State
Tax, Maldah Charge & Ors.

(Via Video Conference)

Mr. Saurabh Sankar Sengupta,
Mr. Indranil Biswas.
……for the petitioner.
Mr. Ajay Chaudey.
…….for the respondent no.8.
Mr. Sujit Mitra.
……for the UOI.
Mr. A. Ray,
Mr. S. Mukherjee,
Mr. N. Chatterjee.
…….for the State.

Heard learned advocates appearing for the parties.

In this matter, petitioner has challenged the impugned demand notice dated 17th February, 2020 arising out of the adjudication proceeding which was confirmed by the appellate authority by not taking into consideration Section 50 Sub-Section (1) of the GST Act which has been amended by the Finance Act, 2021 under Section 112 which is quoted hereunder:-

"112. In Section 50 of the Central Goods and Services Tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:-

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of Section 39, except where such return is furnished after commencement of any proceedings under Section 73 or Section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger."

In view of this legal position as stands today and in view of this amendment, the impugned notice of demand relating to interest in question is not sustainable in law and is set aside.

Accordingly, the writ petition being W.P.A. No.3478 of 2021 is disposed of.

However, setting aside of the impugned demand notice will not prevent the respondent to recalculate the demand after taking into consideration the aforesaid amendment of Section 50 Sub-Section (1) of the GST Act.

(Md. Nizamuddin, J.)