S/L 17
23.08.2021
Court. No. 2
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WPA 11790 of 2021
Ashmeet Automobiles Private Limited
Vs.
State of West Bengal & Ors.
(Through Video Conference)

Mr. Suryaneel Das
.... For the Petitioner

Mr. A. Ray, Ld. G.P.
Md. T.M. Siddiqui
Mr. D. Ghosh
.... For the State

Heard both the parties.

In this writ petition, the petitioner has challenged the impugned adjudication order dated 24th June, 2019 by contending that in view of amendment to Section 50 Sub-Section (1) of the GST Act and the order of the Appellate Authority dated 24th February, 2020 in connection with interest under Section 50 Sub-Section (1) of the GST Act relating to the Assessment Year 2018-19, the aforesaid impugned order of adjudication relating to interest is not sustainable in law. Section 50 Sub-Section(1) of the GST Act which has been amended by the Finance Act, 2021 under Section 112 of the Finance Act, 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 1^{st} 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 now due to the aforesaid amendment, the impugned demand arising out of the impugned adjudication order dated 24^{th} June, 2019 is not sustainable and accordingly the impugned order of the Appellate authority dated 24^{th} February, 2020 and order of attachment of the Bank account in question in connection with the demand relating to interest is set aside.

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

Accordingly, the writ petition, being WPA 11788 of 2021 is disposed of.

(Md. Nizamuddin, J.)