

20.12.2021

ks
sl. 22

WPA 19473 of 2021

Deepak Kumar Gupta, Proprietor of M/s. Balaji Enterprise

Vs

State of West Bengal & Ors.

Mr. Arijit Chakraborti,
Mr. Nilotpal Chowdhury,
Mr. Prabir Bera

... For the Petitioner.

Mr. A. Roy, Ld. GP
Mr. T.M. Siddiqui,
Mr. Debasish Ghosh

... For the State.

Heard learned Advocates appearing for the parties.

In this writ petition, petitioner has challenged the legality of the impugned order dated 9th August, 2021 blocking the Inputs Tax Credit (ITC) at the Electronic Credit Ledger of the petitioner. Petitioner submits that against the aforesaid impugned order dated 9th August, 2021, he made a representation on 21st August, 2021, which appears at pages 140 and 142 of the writ petition. Petitioner further submits that the respondent authority concerned rejected his aforesaid representation and communicated the same by e-mail dated 3rd September, 2021, which appears at page 146 of the writ petition by simply reiterating the allegations of the respondent in its impugned order of blocking of ITC and has not dealt with the contentions raised by the petitioner in his representation and further submits that the findings of the respondent authority

concerned in the impugned intimation of rejection of the petitioner's representation is contrary to record. It appears to me that the allegations involved in this writ petition made by the petitioner and the stand taken by the respondent authority concerned, all are disputed questions of fact and the matter of evidence and this court sitting in writ jurisdiction neither can act as inquiring authority into the facts nor can it re-appreciate the evidence and substitute the findings of the respondent with its own findings and if the impugned action of the respondent authority concerned blocking the ITC of the petitioner is contrary to record and the rejection of petitioner's representation has been done without dealing with the contentions raised in his representation, it will be appropriate for this court to remand the matter before the respondent authority concerned to consider afresh the aforesaid representation of the petitioner by taking into consideration the contentions raised by the petitioner in his aforesaid representation as well as also taking into consideration and by observing the principle of natural justice and the records available to the respondent authority concerned, within two weeks from the date of communication of this order.

It is to be recorded that this court has not gone into the merits of the aforesaid representation of the

petitioner and the respondent authority concerned while considering the aforesaid representation shall act strictly in accordance with law.

With these observations and directions, the writ petition, being WPA 19473 of 2021 is disposed of.

(Md. Nizamuddin, J.)