09.09.2021
p.b.
Sl. No.137.

W.P.A. 11244 of 2020

Rajesh Shaw
Vs.
Superintendent, CGST & CX,
Shyambazar Division & Ors.

(Via Video Conference)

Mr. Suryaneel Das,
Mr. Suvranil Saha.
…….for the petitioner.
Mr. Sukalpa Seal.
…….for the respondents.

Both the parties are present.

In this matter, the petitioner has challenged the impugned demand notice dated 2nd March, 2020 in connection with interest under Section 50 Sub-Section (1) of the GST Act relating to the Assessment Year 2017-18 and 2018-19 and this writ petition was filed on 19th July, 2019. The petitioner submits that during the pendency of this writ petition, Section 50 Sub-Section (1) of the GST Act has been amended by the Finance Act, 2021 under Section 112 of the Finance Act 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.11244 of 2020 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.)