HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
HONOURABLE SMT. JUSTICE P. MADHAVI DEVI

W.P.Nos.18236, 18817, 17357, 20866, 23315, 27645, 28902 & 28904 OF 2019, 4631, 4643 & 4687 OF 2020

COMMON ORDER : *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

This order will dispose of the present bunch of writ petitions.

2. We have heard learned counsel for the parties.

3. In this batch of writ petitions, the basic grievance of the petitioners relates to levy of interest on the gross returned income and not on the net cash amount.

4. Basic controversy centres around interpretation of Section 50 of the Central Goods and Services Tax Act, 2017 (briefly 'the CGST Act' hereinafter).

5. It may be mentioned that Section 50 of the CGST Act deals with interest on delayed payment of tax. Sub-section (1) thereof as it initially stood, reads as under:

> "Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent, as may be notified by the Government on the recommendations of the Council."

6. It may be mentioned that the proviso to Section 50 was substituted by the Finance Act, 2021 with retrospective effect from 01.07.2017. Prior to substitution, the proviso read as under:

> "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 levied on that portion of the tax that is paid by debiting the electronic cash ledger."

After the substitution, the proviso now reads as under:

> "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."

7. In view of the amendment carried out, the grievance of the petitioners has been redressed. However, the details of interest to be paid by the petitioners are required to be worked out by the concerned authorities as per the amended provision.

8. In that view of the matter and having regard to the amendments carried out by the Finance Act, 2021, all the writ petitions are allowed with the further direction that respondents shall issue notice and hear the petitioners before quantifying the interest to be paid by the petitioners as per the amended provision of Section 50 of the CGST Act. No order as to costs.

9. Pending miscellaneous applications, if any, shall stand closed.

UJJAL BHUYAN, J

P. MADHAVI DEVI, J

Date: 24.12.2021
Lrkm