

13.12.2022

Sl no. 26

Ct no. 2

P.M.

WPA 2654 OF 2020

M/s. Larsen & Toubro Limited.

- Vs -

State of West Bengal & Ors.

Mr. P. K. Das, Sr. Adv.,
Mr. Subrata Mukherjee
... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader
Md. T. M. Siddiqui
Mr. D. Ghosh,
Mr. N. Chatterjee
... for the State.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned communication dated 2nd May, 2018 being annexure P/5 to the writ petition by which the petitioner has been asked to pay interest as per Section 50 of the WBGST Act, 2017 on the ground that the petitioner has wrongly claimed ITC under the WBGST Act, 2017 of an amount of Rs. 18,36,39,830/- and in the same communication it has been recorded that petitioner has made payment voluntarily in DRC 3 for the said amount as per provisions of Section 73(5) of the WBGST Act, 2017.

Petitioner submits that the criteria for claiming interest is that petitioner must have claimed ITC wrongly and must have utilized the same.

In the present case admittedly it has not been utilized and it has been reversed and as such petitioner is not liable to pay interest in view of the amended provisions of Section 50 sub-section (3) of the said Act substituted by Finance Act, 2022 with retrospective effect from 1st July, 2017.

Considering the facts and circumstances of this case and legal position and submission of the parties and particularly taking into consideration the substituted provisions of Section 50(3) of the WBGST/CGST Act, 2017, I am of the considered view that the petitioner is not liable to pay interest as per impugned communication dated 2nd May, 2018 and as per the view taken by this Court, all legal consequences will follow.

In view of the discussion and observation made above this writ petition being WPA 2654 of 2020 stands disposed of.

(Md. Nizamuddin, J.)