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WPA 11122 of 2022

Kinaram Vintrade Private Limited
Vs
State of West Bengal & Ors.

Mr. Mainak Bose,
Mr. Neeraj Kumar Pandey,
Mr. S.M. Akhter,
Mr. Abu Bakar Suleman
… For the Petitioner.
Mr. A. Ray, Ld. GP.,
Mr. T.M. Siddiqui,
Mr. N. Chatterjee,
Mr. V. Kothari
… For the State.

Heard learned Advocates appearing for the parties.

Petitioner has filed this writ petition being aggrieved by the impugned action of the respondent, WBGST Authority concerned blocking the Input Tax Credit (ITC) of the petitioner on 28.5.2022 available in the Electronic Ledger in question without intimating the petitioner the recorded reasons before taking such harsh action. Petitioner submits that it is well settled principles of law that any adverse action taken against a person, he must be informed the recorded reasons for taking such adverse action so that he could know the reasons and basis for taking any coercive and adverse action against him and on this proposition of law, petitioner has relied on several reported and an unreported decisions of different High Courts namely, Hon'ble Madras High Court in WA No.2341 of 2021 dated 16th September, 2021 in the case of M/s. HEC

India LLP vs. Commissioner of GST and Central Excise, Audit-II, Commissionerate and the unreported decision of the Hon'ble Gujarat High Court in R/Special Civil Application No.17202 of 2021 dated 23rd February, 2022 in the case of New Nalbandh Traders vs. State of Gujarat & Ors. and also a decision of the Hon'ble Punjab and Haryana High Court in CWP No.26661 of 2021(O & M) dated 31st May, 2022 in the case of Rajnandini Metal Ltd. Vs. Union of India & Ors..

Considering the submission of the parties and the judgments relied upon by the petitioner, I am of the view that the action of the respondent, WBGST Authority in blocking the Input Tax Credit (ITC) of the petitioner without intimating the recorded reasons for the same to the petitioner is arbitrary, illegal and in violation of principles of natural justice since it deprives the right of the petitioner to effectively defend or oppose such action of the respondent authority.

Mr. Siddiqui, learned Additional Government Pleader appearing for the respondents produces the record to show that in this case, in fact recorded reasons is there for taking impugned action of blocking of Input Tax Credit (ITC) of the petitioner but he could not satisfy this Court with any document to show that this recorded reasons on the basis of which the impugned action of blocking of Input Tax Credit (ITC) has been taken, was communicated/intimated to the petitioner.

Considering the submission of the parties and the judgments referred hereinabove, this writ petition being WPA 11122 of 2022 is disposed of by holding that the impugned action of the respondent WBGST Authority taking impugned coercive action of blocking of the petitioner's Input Tax Credit (ITC) without intimating to the petitioner the recorded reasons for such action is illegal and not sustainable in law and is in violation of the principles of natural justice.

Mr. Siddiqui, leaned Additional Government Pleader, in court, serves a copy of the recorded reasons to the petitioner and petitioner shall be entitled to file objection against the aforesaid impugned action of the blocking of Input Tax Credit (ITC) of the petitioner within seven days from date. The respondent, WBGST Authority shall consider and dispose the same in accordance with law and by passing a reasoned speaking order after giving an opportunity of hearing to the petitioner or its authorised representative within seven days from the date of receipt of such reply/response and if the petitioner in course of hearing is able to make out a case for cancellation or revocation of the impugned order of blocking of Input

Tax Credit (ITC) the respondent, WBGST Authority shall immediately pass the order revoking the same.

In future in every case of blocking of Input Tax Credit (ITC), WBGST authority shall communicate the assessees order of blocking of Input Tax Credit (ITC) along with recorded reason.

This Writ Petition being WPA No. 11122 of 2022 stands disposed of accordingly.

(Md. Nizamuddin, J.)