04.07.2022.
p.b.
Sl. No.16.

W.P.A. 11615 of 2022

M/s. Aminia Golpark
Vs.
Deputy Commissioner
Commercial Taxes Ors.

Mr. Debanuj Basu Thakur.
........for the petitioner.
Mr. Subhankar Chakraborty,
Mr. S. Bhattacharjee.
........for the respondent no.9.
Mr. A. Ray,
Mr. T. M. Siddiqui,
Mr. V. Kothari,
Mr. D. Ghosh,
Mr. N. Chatterjee.
.........for the State.

Heard learned advocates appearing for the parties.

Petitioner has filed this writ petition being aggrieved by the action of the respondent authorities concerned reopening an assessment for the purpose of penalty after the adjudication/assessment order was finally settled by the Settlement Commissioner by its order dated 25th March, 2019. Once a matter is settled before the settlement commission that cannot be reopened unless there is some mistake apparent from record or the order has been obtained from the settlement commission by committing any fraud and even for that reason the authority who are aggrieved by the order of the settlement commission, he was to bring it to the notice of the settlement commission such fact. But an assessment after it is settled before the settlement commission cannot be reopened by contending that penalty was not a part of the settlement in respect of the assessment in question. If the respondents are allowed to initiate a penalty proceeding in respect of the very same assessment which has been finally settled before the settlement commission, the very purpose of settlement commission will be frustrated.

For the reasons discussed hereinabove, the impugned notice of penalty dated 22nd November, 2019 under Section 96(1) of the West Bengal Value Added Sales Tax, 2003 are quashed and quashing of the impugned demand notice, all legal consequences will automatically fall.

This writ petition being WPA 11615 of 2022 stands disposed of accordingly.

(Md. Nizamuddin, J.)