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WPA 16707 of 2023

M/s. Avinash Transport & Ors.

Vs

The Superintendent, Group -2, CGST & Central
Excise, Circle 1, Asansol, Durgapur Audit
Commissionerate & Ors.

Mr. Somnath Ganguli,

Mr. Sukalpa Seal,

Ms. Priyamvada Singh

... For the Petitioners.

Mr. K.K. Maiti,

Mr. Tapan Bhanja

... For the CGST Authority.

Mr. Aryak Dutt

... For the UOI.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioners have challenged the impugned notice for recovery of demand dated 24th April, 2019, and the latest notice dated 11th May, 2023, asking the petitioners to pay the demand arising out of the alleged draft audit report. It appears from record annexed to the writ petition itself that the respondent authorities concerned have issued series of notices of recovery of the demand for payment of the initial demand raised on 24th April, 2019, which was not responded to the petitioners nor challenged before any forum including this writ court and as a consequence, respondents authorities concerned could not be faulted for taking steps to give effect to the demand arising out of the alleged draft audit in

question on the basis of which initially demand was raised on 24th April, 2019. Now, after the lapse of more than four years, petitioners try to cover up this lapse and inordinate delay by taking the plea of making representations against the initial recovery notice dated 24th April, 2019, by relying on its representation made after a period of more than three years by the representation dated 12th October, 2022 and 10th April, 2023. It a well settled principles of law that stale cause of action cannot be revived by way of representations. Petitioners have no proper explanation for inordinate delay in approaching this writ court against the impugned demand for recovery raised on 24th April, 2019, which is the basis and foundation by filing this writ petition on 14th of July, 2023, i.e. after more than four years without any proper and cogent explanation and considering that the petitioners are not lay persons or illiterate or a person of no means to approach the writ court within a reasonable time, I am not inclined to entertain this writ petition being WPA 16707 of 2023, and accordingly, the same is dismissed.

(Md. Nizamuddin, J.)

