

26.07.2023

Sl no. 28

Ct no. 2

P.M.

WPA 16736 OF 2023

Sri Ajay Chopra

- Vs -

**Joint Commissioner of State Tax,
West Bengal & Ors.**

Mr. Indranil Banerjee

... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader

Md. T. M. Siddiqui,

Mr. T. Chakraborty,

Mr. S. Sanyal

.... For the State

Heard learned advocates appearing for the parties.

By this writ petition, the petitioners have challenged the impugned order of the appellate authority under WBGST Act confirming the order of the adjudicating authority imposing the penalty for transporting through the vehicle in question after expiry of the e-way bill which was expired on 23.08.2021 and that there is a time gap of 18 hours between the expiry of the e-way bill and interception of the vehicle in question which is about less than a day and writ petitioners submit that there was no intention of any evasion of tax on the part of the petitioners and the expiry occurred due to a genuine problem of extreme congestion in the Highway concerned.

Learned advocate appearing for the petitioners in support of his contention relies on an order of this Court dated 1st March, 2022 in WPA No. 11085 of 2021 in the case of Ashok Kumar Sureka – Vs – Assistant Commissioner, State Tax, Durgapur Range and also a Division Bench decision of this Court dated 12th May, 2022 in MAT No. 470 of 2022.

Learned advocate appearing for the respondents could not make out any case against the petitioners that there was any deliberate or willful intention of the petitioners to avoid and evade the tax.

In view of the facts and circumstances of the case which appears from record and considering the aforesaid two orders of this Court, this writ petition being WPA 16736 of 2023 is disposed of by setting aside the aforesaid impugned order of the appellate authority and adjudicating authority and as a consequence, petitioners will be entitled to get the refund of the tax and penalty in question subject to compliance of legal formalities.

With this observation this writ petition stands disposed of.

(Md. Nizamuddin, J.)