27.07.2023
PB
Sl. No.15.

WPA 16830 of 2023

Sunil Parashar
Vs
The Union of India & Ors.

Mr. Rohan Raj.
... For the Petitioner.
Mr. A. Ray,
Mr. T. M. Siddiqui,
Mr. T. Chakraborty,
Mr. S. Sanyal.
.....for the State.
Mr. K. K. Maiti,
Mr. U.S. Bhattacharya,
Ms. Aishwarya Rajashree.
......for the CGST authority.
Mr. Tilak Mitra,
Mr. Arunava Ganguly,
.......for the UOI.

Heard learned advocates appearing for the parties.

Petitioner has filed this writ petition being aggrieved by the action of the respondents in asking the petitioner for making payment of late fee in filing the return in consequence of restoration of its registration by the order of the appellate authority concerned. Petitioner submits that the respondent authorities concerned is asking the petitioner to pay Rs.10,000/- for filing each return for the relevant period. Petitioner submits that petitioner has already paid Rs.21,000/- as a late fee and upon payment of the same for some of the periods petitioner has been allowed to file return but for the remaining period they are asking again for payment if the huge amount without any authority of law. Learned advocate for the petitioner in support of his contention relies on an unreported decision of a Division Bench of this Court in the case of M/s. Modicum Enterprise (OPC) Private Limited Vs. Deputy Commissioner of State Tax/ Assistant Commissioner of State Tax, Shibpur Charge & Ors. in MAT No.1828 of 2022 and the relevant paragraphs 8 & 9 of the same are recorded as hereunder:-

"This appeal and the connected application as well as the writ petition are disposed of by restraining the respondents from demanding any late fee from the appellant in respect of the returns, which they intend to file and to facilitate the process of filing the return, the nodal officer in the Goods and Services Tax Help Desk, Kolkata is directed to render necessary assistance so that the appellant will be able to file the return without the payment of late fee. This direction shall be complied with within a period of three weeks from the date of receipt of the server copy of this order.

Needless to state that on the ground of non-filing of the return, the respondent should not initiate fresh proceeding for cancellation of the registration."

Mr. Maiti, learned advocate appearing for the respondents could not justify such action of the respondent authorities concerned in asking the petitioner for payment of further amount for allowing the petitioner to file the returns for the relevant period. He also fairly submits that in view of the aforesaid judgment of the Division Bench of this Court, the respondent authorities concerned cannot ask for the amount it has asked for allowing the petitioner to file the return in question.

Considering the facts and circumstances of the case and submission of the parties and the aforesaid order of the Division Bench of this Court, this writ petition is disposed of by directing the respondent CGST authorities concerned to allow the petitioner to file the returns in question relating to the relevant period without payment of any late fee, within a period of three weeks from date by facilitating the process of filing the return.

With this observation and direction, this writ petition being WPA 16830 of 2023 is disposed of.

(Md. Nizamuddin, J.)