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WPA 20057 of 2023

Unifour Ventures Pvt. Ltd.
Vs
Assistant Commissioner of State Tax, Bureau of Investigation, North Bengal Headquarter & Ors.

Mr. Boudhayan Bhattacharyya,
Ms. Stuti Bansal,
Ms. Taniya Roy
... For the Petitioner.
Mr. A. Ray, Ld. GP.,
Mr. T.M. Siddiqui,
Mr. T. Chakraborty,
Mr. S. Sanyal
... For the State.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the Appellate Authority under WBGST Act confirming the order of the adjudicating authority imposing the penalty for transporting the vehicle in question for the reason of expiry of the e-way bill which was expired on 4th May, 2023 at 11.59 p.m. and the vehicle in question was intercepted at 11: 45 p.m. on 5th May, 2023 and there is a time gap between the expiry of the e-bill and interception of the vehicle in question is about 12 hrs. which is less than a day and writ petitioner submits that there was no intention of any evasion of tax on the part of the petitioner and there was a genuine problem of break down of the vehicle in question.

The learned Advocate appearing for the petitioner in support of his contention relies on an order of this court dated March 1, 2022 in WPA No.11085 of 2021 in the case of Ashok Kumar Sureka v. Assistant Commissioner, State Tax, Durgapur Range (2022) 100 GSTR 160(Cal) and also a Division Bench decision of this court dated May 12, 2022 in MAT No.470 of 2022 (Assistant Commissioner, State Tax, Durgapur Range, Government of West Bengal v. Ashok Kumar Sureka (2023) 108 GSTR 362(Cal) and decision of this court in the case of Ramji Taiswal & Anr. vs. State Tax Officer(2023) 108 GSTR 366(Cal).

The learned Advocate appearing for the respondents could not make out any case against the petitioner that there was any deliberate or willful intention of the petitioner to avoid and evade the tax and he opposes this writ petition only on the ground of availability of alternative remedy.

In view of the facts and circumstances of the case which appears from record and considering the aforesaid orders of this court, this writ petition being WPA 20057 of 2023 is disposed of by setting aside the aforesaid impugned order of the Appellate Authority and adjudicating Authority and as a consequence, petitioner will be entitled to get the refund of the penalty in question subject to compliance any legal formalities if requires under the law.

(Md. Nizamuddin, J.)