

13.04.2023
Item No.1
Ct. No.1
PG/KS

R.V.W. 192 of 2022
In
M.A.T 1376 of 2022

The Commissioner of CGST & CX, Haldia CGST & CX
Commissionerate & Anr.
Vs.
Bisweswar Midhya & Ors.

Mr. Bhaskar Prosad Banerjee
Mr. Tapan Bhanja
.....For the applicant/CGST & CX Authority

Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. Jitesh Sah
.....For the respondent no.1

1. We have heard Mr. Bhaskar Prosad Banerjee, learned standing counsel for the applicant/CGST & CX Authority duly assisted by Mr. Tapan Bhanja, learned advocate and Mr. Ankit Kanodia, learned counsel assisted by Ms. Megha Agarwal, learned advocate for the respondent no.1.
2. This review application has been filed to review the judgment and order dated 1st September, 2022. There were two directions issued in the appeal, which was allowed by the said order. One is directing the review applicant/department to revoke the suspension of the respondent no.1's license. This direction

has been complied with. Further direction is to the applicant/department to issue show cause notice, hear the respondent and decide the matter.

3. According to Mr. Banerjee, this direction would set a wrong precedent in the matter in the light of explanation in Sub-Section (12) of Section 75 of the CGST Act, 2017, which came into effect from 1st January, 2022. It is the stand of the department that the said explanation is retrospective whereas the respondent no.1/appellant would contend that it is prospective. In any event, this issue was not urged by the department when the appeal was heard and therefore, on a new ground the review application cannot be maintained.
4. In any event, the Court has issued such a direction taking note of the peculiar facts and circumstances and therefore, the order and direction issued by the Court can never be treated as a precedent and the said order will apply only to the case of the respondent no.1/appellant.
5. With the above clarifications, the review application stands disposed of.
6. There shall be no order as to costs.

7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(PRASENJIT BISWAS, J.)