21.12.2023
PB
Sl. No.4.

WPA 26026 of 2023

M/s. Recom Equipments & Controls & Anr.
Vs
The State of West Bengal & Ors.

Mr. Arijit Chakrabarti,
Mr. Nilotpal Chowdhury,
Mr. Prabir Bera.
... For the Petitioner.
Ms. Udita Saraf.
.......for the respondent no.6.
Mr. Om Narayan Rai,
Mr. Ashok Halder.
.......for the UOI.
Mr. A. Ray,
Mr. T. M. Siddiqui,
Mr. T. Chakraborty,
Mr. S. Sanyal.
.......for the State.

Pursuant to the earlier order of this Court dated 18th December, 2023, Mr. Maiti, learned advocate representing the customs authority files written instruction dated 20th December, 2023, issued by the office of the Commissioner of Customs (Air Cargo Export), which may be kept with the record. On perusal of the aforesaid instruction, it appears that the claim of ITC by the petitioner which was denied by the State GST authority on the ground the same were not imported and unless the custom authority certifies that the goods in question on the import of which petitioner is claiming ITC is certified by the custom authority, State GST authority is not in a position to allow the aforesaid claim, in fact, it has been certified by the customs authority by certifying that out of the nine imports, eight of them have been imported and IGST have been paid, but the custom authority concerned is not in a position to certify in respect of only one bill of entry. A copy of such instruction dated 20th December, 2023, is handed over to Mr. Siddiqui, learned Additional Government Pleader and petitioner will also serve a copy of the aforesaid instruction along with the copy of the writ petition.

Considering the facts and circumstances of the case and submission of the parties and in view of the instruction dated 20th December, 2023, this writ petition being WPA 26026 of 2023 is disposed of by setting aside the impugned adjudication order dated 16th August, 2023 by directing the adjudicating authority concerned of the State GST, to pass a fresh adjudication order, within two weeks from the date of receipt of such order and allow the claim of ITC in accordance with law. So far as one import regarding which bill of entry is not available in the office of the custom authority concerned, petitioner may approach with supporting documents to the custom authority which will consider the same in accordance with law.

Mr. Maiti, learned advocate representing the custom authority points out that there is typographical mistake in the aforesaid in recording the writ petition number and instead of WPA 26026 of 2023, it has been recorded as WPA 260 of 2023.

(Md. Nizamuddin, J.)