

24.11.2023

Sl no. 24

Ct no. 2

P.M.

WPA 26169 OF 2023

**Shri Goda Surya Narayan C/O Arrdy
Engineering Innovations Private Limited**

- Vs -

**The Assistant Commissioner of State Tax, Bureau
of Investigation (South Bengal), Khargpur Zone,
WBGST & Ors.**

Mr. Ankit Kanodia

Mr. M. Agarwal,

Mr. Jitesh Sah

... 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, petitioner has challenged the impugned order of the appellate Commissioner dated October 10, 2023 confirming the original order dated May 22, 2023 passed by the adjudicating authority under section 129 of the West Bengal Goods and Services Act, 2017 for detention of the goods in question on the grounds that the e-way bill relating to the consignment in question had expired one day before, i.e. in the midnight of May 16, 2023, and that the goods was detained in the morning of May 17, 2023 on the grounds that the e-way bill has expired which is even less than one day and extension could not be made and petitioner submits that delay of few

hours even less than a day of expiry of the validity of the tenure of the e-way bill was not deliberate and willful and there was no intention of any evasion of tax on the part of the petitioner.

The petitioner in support of his contention has relied on an unreported decision of the Supreme Court dated January 12, 2022 passed in Special Leave Appeal (C) No(s).21132/2021 (Assistant Commissioner (ST) & Ors. v. M/s Satyam Shivam Papers Pvt. Limited & Anr.).

Learned advocate appearing for the respondent could not make out a case against the petitioner that the aforesaid violation of statute was willful and deliberate or the intention of the petitioner was for evading tax.

Considering the submission of the parties and the facts and circumstances of the case, this writ petition being WPA No. 26169 of 2023 is disposed of by setting aside the impugned order of the appellate authority dated October 16, 2023 as well as the order of the adjudicating authority dated May 22, 2023 and as a consequence, the petitioner will be entitled to get the refund of the penalty paid on protest subject to compliance of all legal formalities.

(Md. Nizamuddin, J.)