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WPA 28338 of 2022

Brijmohan Damani
Vs
State of West Bengal & Ors.

Mr. Avra Mazumder,
Mr. Arun Kr. Upadhyay,
Ms. Supriya Mahajan,
Mr. Suman Bhowmik,
Mr. Samrat Das,
… For the Petitioner.
Mr. A. Ray, Ld. GP.,
Mr. T. Siddiqui,
Mr. D. Ghosh,
Mr. N. Chatterjee
… For the State.
Mr. Sudipta Maiti
… For the UOI.

Heard learned Advocates appearing for the parties.

Petitioner has filed this writ petition being aggrieved by the action of the respondent State GST Authority in denying ITC to the petitioner on inward supply by the respondent No.7 admittedly on the ground that there was a fault on the part of the petitioner's supplier being respondent No.7 showing transaction in question under the wrong heading i.e. under WBGST/CGST instead of IGST.

Mr. Ghosh, learned Advocate appearing for the State GST Authorities submits that the State GST Authorities are helpless, the remedy against showing a transaction under wrong heading by the petitioner's supplier is not within the hands of the Respondents State GST Authorities. The nature of relief claimed by the petitioner can be granted in the facts and circumstances of the case, only by GSTIN Authority, which is not a party to this writ petition. By the order of this court, Chairman, GSTIN, Ministry of Finance was added as party respondent No.8 and copy of the writ petition and notice have been served such authority.

Considering the facts and circumstances of the case as appears from record and submission of the parties, this writ petition being WPA 28338 of 2022 is disposed of by directing the Authority concerned of GSTIN to consider the grievance of the petitioner as raised in this writ petition and take a decision by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner or his authorised representative, within a period of eight weeks from the date of communication of this order.

Till such decision is taken by the GSTIN Authority, there will be a status quo as of today with regard to the demand being Annexure P-8 to the writ petition.

Petitioner shall communicate this order along with a copy of the writ petition immediately to the respondent No.8 with intimation to the State GST Authority concerned.

(Md. Nizamuddin, J.)