

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

8 12.09.2023
Ct. No. 2
D.Ghosh

WPA/509/2023

**DRB INFRATSTRUCTURE PVT LTD
VS
STATE OF WEST BENGAL AND ORS**

Mr. Bharat Raichandani,
Mr. Debajit Kundu,

...for petitioner.

Mr. Subir Kr. Sahs (AGP)

...for State.

The principal grievance of the writ petitioner is directed against an order dated 15th February, 2023 passed under Section 129 (3) of the WBGST/CGST Act.

It is submitted on behalf of the petitioner that in or about 2018 in the course of carrying out construction work at Arunachal Pradesh, a truck belonging to the petitioner had been seized and a demand had been raised under the West Bengal GST Act and Rules, 2017.

Pursuant to such show-cause notice, the petitioner had given a detailed response dated 13th February, 2023.

By the impugned order, the respondent authorities have rejected the objection raised on behalf of the writ petitioner and raised a demand for Rs.8,13,600/-.

By an interim order dated 16th June, 2023, the petitioner was directed to furnish a bank guarantee and permitted to release the trailers loaded with machines. It is submitted on behalf of the petitioner that in terms of the order dated 16th June, 2023, the bank guarantee had been furnished and the same is kept with the Senior Joint Commissioner of Revenue. A copy of the said bank guarantee is also furnished to the State authorities.

The impugned order records that the objections filed by the petitioner had been perused and were not acceptable in the eye of law. No reasons have been provided in the impugned order. Nor does the impugned order deal with the objections raised by the petitioner. The justification and reasonableness of a conclusion can only depend on the reasons provided in support thereof which the impugned order fails to provide. In particular, the petitioner had raised an issue as to whether any penalty could have been charged in the facts and circumstances of the case since no tax was due and payable and the petitioner had not made any supply. Such objection raised by the petitioner ought to have been dealt with in the impugned order. The conclusion reached at by the respondent no.3 is bereft of any reasons whatsoever. There has been no adjudication on the merits of the case.

Accordingly, the impugned order is unsustainable and set aside. The matter is remanded back to the proper officer to adjudicate the response dated 13 February, 2023 and pass a reasoned order within eight weeks from the date of communication of this order.

In the meantime, the petitioner is directed to keep the bank guarantee alive until final disposal of the representation.

With the aforesaid directions, WPA/509/2023 stands disposed of.

(Ravi Krishan Kapur, J)