

06.02.2024

Sl no. 6

Ct no. 2

P.M.

WPA 1418 OF 2024

M/s. Rittik Clinic and Laboratory

- Vs -

**Deputy Commissioner of CGST & CX,
Joka Division, Kolkata South
Commissionerate & Ors.**

Ms. Sweta Mukherjee

... for the petitioner

Mr. Kaushik Dey,

Mr. Sujit Mitra

.... for respondent No. 1, 2 & 3.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned adjudication order raising a demand under the Service Tax Act by contending that Service Tax is not leviable upon the petitioner since it is not a registered person and it has never applied for its registration and by further contending that in this regard petitioner has made several representations from time to time which were not considered.

Mr. Dey, learned advocate representing the respondent Service Tax authority submits that the allegation of the petitioner to the extent that its registration were not considered is not correct and in fact the same were considered before passing the impugned assessment order.

It also appears from record that after passing of the impugned assessment order petitioner has made another representation on 6th October, 2023 as appears at page 75 of the writ petition which according to the petitioner is still pending.

Considering the facts and circumstances of this case and submission of the parties and in view of the question raised by the petitioner which is mainly question of fact and that petitioner is not a registered person and is not leviable to tax, this writ petition being WPA 1418 of 2024 is disposed of by directing the respondent authority concerned to consider and dispose of the aforesaid representation of the petitioner dated 6th October, 2023 in accordance with law and by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner or its authorised representatives within a period of four weeks from the date of communication of this order and in case the petitioner is not able to make out a case with supporting documents in support of its contention, the impugned order dated 9th August, 2023 shall become effective. Till disposal of the aforesaid representation, no coercive action for recovery of the demand shall be taken against the petitioner.

It is clarified that no unnecessary adjournment shall be granted to the petitioner.

(Md. Nizamuddin, J.)