18
29.08.2024
sb
Ct 5

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 17137 of 2024

M/s. Kalyani Udyog & Anr.
Versus
The State of West Bengal & Ors.

Mr. Tara Pada Das
Mr. Puspam Das
... For the petitioners.

Mr. Anirban Ray, Ld.GP
Mr. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
Mr. Nilotpal Chatterjee
... For the State.

Mr. Avra Mazumder
Ms. Alisha Das
Mr. Suman Bhowmik
Mr. Samrat Das
Ms. Elina Dey
Mr. Sourendra Nath Banerjee
... For the respondent nos. 5 & 6

1. Mr. Chakraborty, learned advocate appearing on behalf of the State respondents, on instruction, would submit that already a sum of Rs.8,28,398/- has been recovered partly on the basis of the notice issued in Form GSTDRC-13 dated 12th March, 2024 and partly from the electronic credit ledger.

2. Taking note of the aforesaid and the Form in GSTDRC-07 dated 24th August, 2023, it appears that the total recoverable amount in respect of the order passed under Section 74 of the CGST/WBGST Act, 2017 (hereinafter referred to as the "said Act") dated 24th August, 2023, for the tax period April,

2022 to March, 2023 was Rs.8,28,398/- .

3. Mr. Mazumder, learned advocate appearing on behalf of the respondent nos. 5 and 6 has also placed before this Court a communication dated 22nd May, 2024, issued by the Assistant Commissioner of Revenue, addressed to the respondent no.5 intimating that a sum of Rs.8,13,010/- has already been recovered from the tax payer. Let a copy of the aforesaid communication dated 22nd May, 2024 be retained with the records.

4. Since, Form GSTDRC-13, records that a sum of Rs.8,13,010/- was due and payable from the petitioners for which the said notice had been issued, I am of the view that the aforesaid notice issued in Form GSTDRC-13 cannot be permitted to continue any further.

5. The notice dated 12th March, 2024, issued under Section 79(1)(c) of the said Act is quashed.

6. Since, it has been submitted on behalf of the petitioners that excess amount in excess of the determination made by the respondents has been recovered, the petitioners shall be at liberty to apply for refund of the amount recovered from them in

excess, if any.

7. If such application is made, the appropriate authority shall decide the same on merits without being influenced by any of the observation made hereinabove, within a period of 8 weeks from the date of filing such application.

8. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)