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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19054 of 2024

North Land Construction
Versus
The State of West Bengal & Ors.

Mr. Promit Majumdar
Mr. Uzma Ali
... For the petitioner.

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

1. Mr. Majumdar, learned advocate appearing on behalf of the petitioner would submit that although a determination had been made by the State respondents under Section 73 of the CGST/WBGST Act, 2017 for the tax period February, 2018 to March, 2018, prior to filing of the writ petition a major part of the tax liability to the extent of Rs.1,73,174/- had already been recovered from the petitioner's electronic credit ledger. He would submit that as on today only a sum of Rs.61,078/-is outstanding. The respondent no.2 has, however, attached the petitioner's bank account by issuing a notice in Form GST DRC 13 dated 27th December, 2022. By drawing attention of this Court to the notification published in the Official Gazette on 16th August, 2024 he would submit that the provisions of Section 16 of the CGST Act, 2017 (hereinafter

referred to the said Act) has already been amended and sub-sections (5) & (6) have been inserted whereunder the registered tax payers, notwithstanding the provisions of Sub-Section 4 of Section 16 of the said Act, have been permitted to take Input Tax Credit in the return under Section 39 of the said Act which are filed upto 30th November, 2021, for the financial years 2017-18, 2018-19, 2019-20 and 2020-21. By drawing attention of this Court to the order passed under Section 73 of the said Act he would submit that since, the return in this case was filed under Section 39 of the said Act on 31st July, 2019, the interest including penalty had been imposed on the petitioner. He would further submit that in the light of the aforesaid amendment to Section 16 of the said Act, the determination already made by the respondents under Section 73 of the said Act is no longer sustainable in law.

2. Mr. Chakraborty, learned advocate appearing on behalf of the State respondents on the other hand would submit that having regard to the latest development in the form of amendment of Section 16 of the said Act, the aforesaid matter requires further reconsideration by the department.

3. Having regard thereto, I remit this matter to the proper officer, being the respondent no.2, for reconsideration

of the order passed on 23rd November, 2020 having regard to the amendment introduced in Section 16 of the said Act.

4. Further by taking note of the amendment of Section 16 of the said Act and the realisation of Rs.1,73,174/- from the petitioner's electronic credit ledger, I am of the view that notice in Form GSTDRC-13 attaching petitioner's bank account dated 27th December, 2022, cannot be continued any further, the same is accordingly quashed.
5. The proper officer is directed to take a fresh decision in the matter and communicate the same to the petitioner by passing a reasoned order after giving an opportunity of hearing to the petitioner.
6. Such decision must be taken within a period of eight weeks from the date of communication of this order. Till such time a fresh decision is taken the order dated 23rd November, 2020 shall remained stayed.
7. 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.)