

WPA 23741 of 2024

**M/s. Jyoti Tar Products Private Limited & Anr.
Vs.
The Deputy Commissioner, State Tax & Ors.**

Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. Piyush Khaitan

... ... for the petitioners

Mr. A. Ray
Md. T.M. Siddiqui
Mr. T. Chakraborty
Mr. S. Sanyal

... ... for the State

Mr. Anikit Kanodia, learned counsel appearing for the petitioners submits that the respondent No.1 has denied the input tax credit on invoices issued by various registered persons stating that since it was declared inward supply and availing ITC on such inward supply made from a person who is unregistered or non-existent or not conducting any business from any place for which registration has been obtained by the petitioners on said transactions is inadmissible in accordance with the provisions of law. Therefore, the petitioners pray for quashing and/or setting aside of the order passed in FORM DRC-07 bearing Reference No.ZD190724015748Z dated 10.07.2024 under section 74 of the Central Goods and Services Act, 2017 and the West Bengal Goods and Services Tax Act, 2017 for the financial year 2018-19 by the Deputy Commissioner, State Tax, Shibpur Charge.

Learned counsel appearing for the petitioner further submits that the transaction in question regarding the recovery of ITC on account of retrospective cancellation of the suppliers is valid in nature. The petitioner's with their due diligence have verified the genuineness and identity of the supplier in question. The supplier was very much existent at the time of transaction as there was physical movement of goods, the payment have been made through banking channels and both tax invoices were in possession of the petitioners.

Learned counsel appearing for the State submits that the abovementioned adjudicating order can be challenged before the appellate authority and there is an alternative remedy available.

Heard learned counsel appearing for the parties.

In Assistant Commissioner (CT) LTU, Kakinada & ors. Vs. M/s. Glaxo Smith Kline Consumer Healthcare Limited reported in (2020) 19 SCC 681, the Hon'ble Supreme Court observed that when the writ petitioner has statutory alternative remedy available and do not avail such remedy within the statutory period as prescribed, the writ Court should exercise self-restrain and not entertain such writ petition.

As there is an alternative remedy available to the petitioner in the present case, the writ petition is

disposed of by directing the petitioners to prefer an appeal before the proper forum.

The writ petition being WPA 23741 of 2024 is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajarshi Bharadwaj, J.)