21.04.2025
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Sl. No. 15
ML
Ct. No. 05

WPA 1378 of 2025

M/s Suburban Industrial Works Pvt. Ltd.
Vs.
Superintendent, Range V, Bhowanipur Division,
CGST & CX, Kolkata & anr.

Mr. Aritra Chakraborty
Ms. U. Ali
.... for the petitioner

Mr. Kaushik Dey
Mr. K. K. Maity
... for the CGST

Mr. Aryak Dutta
....for the UOI

1. Challenging the order passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act) dated 28th June, 2024 in respect of tax period January 2020 to March 2020, the instant writ petition has been filed. The issue involved is with regard to the belated filing of returns under Section 39 of the said Act and the consequential effect of Section 16(4) of the said Act which prevented a registered person from being entitled to an input tax credit in respect of the invoice or debit note for supply of goods or services or both, after 30th November, following the end of the financial year to which such invoice or debit note pertains or furnishing of relevant annual returns, whichever is earlier.
2. Admittedly, in this case, it may be seen that having regard to the provisions contained in Section 16(4) of

the said Act and the petitioner having filed the returns in form GSTR-3B beyond the due date as provided in Section 16(4) of the said Act, not only the input tax credit availed by the petitioner was reversed but the petitioner was also saddled with interest under Section 50 of the said Act.

3. Parties would however, jointly submit by placing before this Court the relevant notification dated 16th August, 2024 published in the gazette of India and the notification dated 10th January, 2025 published in the Kolkata Gazette whereby, the CGST Act 2017 and the West Bengal GST Act, 2017 have been amended so as to incorporate therein sub-Section 5 after Section 16(4) which has an overriding effect on Section 16(4) of the said Act, so as to remove the mischief of Section 16(4) thereby enlarge the time for filing of returns in respect of the financial year 2017-2018, 2018-2019, 2019-2020 and 2020-2021 up to the 30th November, 2021.
4. Admittedly, in this case, the returns having been filed within such extended dates, by operation of law the mischief of Section 16(4) cannot apply and accordingly, the aforesaid order dated 28th June, 2024 can no longer be enforced and the same is accordingly set aside and quashed.
5. There shall be no order as to costs.
6. With the aforesaid observations and directions, the writ petition being WPA 1378 of 2025 is disposed of.

(Raja Basu Chowdhury, J.)