08. **05.05.2025**
(M/L) **Court No.05.**

(Pritam)

WPA 2103 of 2025

Anmol Stainless Private Limited & Anr.

-Vs.-

The Deputy Commissioner of State Tax,
Director of Commercial Taxes,
Serampore Charge & Ors.

Mr. Ankit Kanodia,
Ms. Megha Agarwal,
Ms. Tulika Roy,
Mr. Piyush Khaitan

...for the petitioners.

Mr. Kaushik Dey,
Mr. K. K. Maiti

....for the CGST Authority.

Mr. A. Ray, Ld. G.P.,
Mr. T. M. Siddiqui, A.G.P.,
Mr. T. Chakraborty,
Mr. S. Shaw,
Mr. S. Sanyal

...for the State.

1. Affidavit-of-service filed in court today be taken on record.
2. Mr. Kanodia learned advocate appearing for the petitioner, by placing reliance on the notifications dated 31st March, 2023 and 28th December, 2023 submits that the Central Board of Indirect Taxes and Customs by the aforesaid notifications have extended the time limit as specified in Section 73(10) of the WBGST/CGST Act, 2017 (herein referred to as the "said Act") for issuance of the order under Section 73(9) of the said Act for recovery of tax not paid or short paid or of input tax credit

wrongly availed or utilized, relating to then period as specified in the said notifications.

3. By referring to Section 168A of the said Act the petitioner claims that the said section has been introduced with effect from 31st March 2020, whereunder a power has been conferred on the government to extend the time limit prescribed or notified under the Act in special circumstances in respect of actions which cannot be completed or complied with due to force majeure. By referring to the order dated 27th August 2024, it is submitted that the show cause cum demand notice under Section 73 of the said Act was issued on 30th April, 2024 in respect of the tax period April 2019 to March 2020. Since, there was no force majeure prevailing then, the respondents could not have relied on the aforesaid notifications for extending the time for initiation of proceeding in April 2024. According to the petitioner the aforesaid notifications as also the aforesaid show cause notice and the adjudication order had been issued in colourable exercise of power. A valuable right has already accrued in favour of the petitioner. In such circumstances, Mr. Kanodia prays for stay of operation of the aforesaid order and the consequential demand.

4. Mr. Siddiqui, learned advocate appearing on behalf of the State GST authorities submits that the present writ petition cannot be decided without calling for affidavits.

He submits that the respondents should be granted opportunity to file affidavit-in-opposition.

5. Having regard to the aforesaid and since a jurisdictional issue has been raised, the writ petition shall be heard. Let affidavit-in-opposition to the present writ petition be filed within a period of four weeks from date. Reply thereto, if any, be filed within three weeks thereafter.

6. Taking into consideration the fact that a *prima facie* case has been made out by the petitioner, and the fact that a coordinate Bench of this Court by an order dated 13th February, 2024 in an identical matter in the case of *OSL Exclusive (P.) Ltd. Union of India (2024) 21 Centax 400 (Cal.)/2024 165 taxmann.com 652 (Calcutta)/2024 SCC OnLine Cal 2826* had been pleased to pass a limited interim order, I propose to stay the impugned demand made in the order dated 27th August, 2024 as appearing at annexure P-6 to the writ petition till the end of December 2025 or until further order, whichever is earlier.

7. Liberty to mention after expiry of the period for exchange of affidavits.

(Raja Basu Chowdhury, J.)