25.03.2025
Item No.6
gd/ssd

MAT/319/2025

WILHELMSEN PORT SERVICES INDIA PRIVATE LIMITED AND ANR.
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2025

Mr. Himangshu Kumar Ray.
Mr. Arup Dasgupta,
Ms. Shiwani Shaw,
Mr. Bhaskar Sengupta,
Mr. Subhasis Podder,
Mr. Animitra Roy,
Mr. Piyas Chowdhury,
Mr. Amit Saha
..for the Appellants.

Md. T.M. Siddiqui,
Mr. N. Chatterjee,
Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal
..for the State.

1. This intra court appeal by the writ petitioners is directed against an interim direction dated 24th February, 2025 in WPA 406 of 2025.

2. In the said order the learned Single Bench exercised discretion while granting an order of stay by directing the appellants to pay 10% of the balance amount of tax in dispute.

3. We have elaborately heard the learned counsel for either of the parties.

4. Under normal circumstances in an intra court appeal, the court will not interfere with the discretion exercised by the learned Single Bench.

5. However, in the instant case the peculiar facts and circumstances persuade us to grant an order of stay of the impugned orders in the writ petition without any condition.

6. This is because the case of the appellant/writ petitioners is that they committed a mistake while claiming ITC in IGST to the tune of Rs.19,12,857/- in the place of actual claim of ITC in CGST of Rs.9,56,429.12/- in WBGST of Rs.9,56,429.12/- and, as a result of the said ITC in IGST of Rs.19,12,857/- was reflected in the electronic credit ledger of IGST.

7. Thus, it is seen that there is no revenue loss to the Government and it is revenue neutral.

8. Considering these facts, the court is of the view that the orders impugned in the writ petition shall remain stayed till the disposal of the writ petition and the petitioners are exempt from making the payment of 10% of the tax in dispute as ordered by the learned writ court.

9. Accordingly, the interim order passed by the learned writ court is modified.

10. It is made clear that this order has been passed considering the peculiar facts and

circumstances of the case and cannot be treated as a precedent.

11. With the above observations, the matter stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)