11.06.2025
Item No
AD 4
Saswata

WPA 9713 of 2025

Mahesh Kumar Mishra
versus
Union of India & Ors.

Mr. Mahendra Kumar Agarwal
...For the petitioner
Mr. T.M.Siddiqui, Ld. AGP
Mr. T. Chakraborty
Mr. S.Sanyal
Ms. S. Shaw
...For the State
Ms. Manasi Mukherjee
Mr. Bijitesh Mukherjee
...For the respondent no. 3

1. Affidavit of service filed in Court today is retained with the record.

2. Challenging the appellate order dated 27th January 2025 passed under Section 107 of the WBGST /CGST Act, 2017 (hereinafter referred to as the "said Act") arising out of the order 19th January 2021 passed under Section 74 of the said Act for the tax period April 2018 to November 2019, the instant writ petition has been filed.

3. Heard the learned advocates appearing for the respective parties.

4. It appears that being aggrieved by the order dated 19th January 2021 passed under Section 74 of the said Act for the tax period April 2018 to November 2019, the petitioner though belatedly had filed an appeal by availing the Scheme to belatedly file an appeal, thereby depositing 12.5 per cent of the disputed tax. However, in the interregnum it appears that a sum of Rs.1,45,188/- had been recovered from the petitioner's credit ledger against demand id ZD190121004969C as would corroborate from the print out of the screenshot from the petitioner's portal which has not been appropriately given credit in Form GST APL – 04, inasmuch as, the total demand in Form GST DRC – 07 on account of tax being Rs.1,14,736/-, and Rs.1,45,188/- having been recovered

pursuant to the above demand, no further demand on account of such disputed tax could have been raised by the respondents.

5. If the respondents have chosen to recover a sum of Rs. 1,45,188/- from the petitioner against the demand raised by the respondents in Form GST DRC – 07 dated 19th January 2021, the said amount ought to have been adjusted against the principal tax demand at the first instance. There being no clarity in the order as regards the above, I am of the view that the aforesaid order cannot be sustained and the matter should be remanded back to the appellate authority. The appellate authority while hearing out the appeal on remand, shall take into consideration the recovery made by the respondents on 9th January 2022 against demand ID ZD190121004969C, which would corroborate from page 153 of the instant writ petition and should also factor in the payment of pre-deposit made by the petitioner.

6. With the above observations and directions, the writ petition is disposed of.

7. All parties shall act on the basis of the server copies of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)