22.09.2025
Sayandeep
ML
Sl. No. 358
Ct. No. 05

WPA 10038 of 2025

Titagarh Rail Systems Limited
-Versus-
The Deputy/Joint Commissioner, State Tax Office of the Special Commissioner & ors.

Mr. Somak Basu
Mr. Swagato Kabiraj
…….for the petitioner

Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
….. for the State

1. Citing extreme urgency, this matter has been mentioned. Accordingly, the matter has been taken up out of turn.
2. Learned advocate for the petitioner would insist that the petitioner has a right of getting the matter adjudicated before this Court, notwithstanding, there being an appellate forum. The petitioner challenges the order dated 30th August, 2024 passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act) for the tax period April, 2019 to March 2020. It is the petitioner's contention that the case made out by the petitioner was not appropriately considered by the adjudicating authority. The petitioner would also submit that the adjudicating officer did not consider the relevant Judgment relied on by the petitioner.

According to the learned advocate for the petitioner, the aforesaid order stands vitiated on such ground. This apart, the petitioner highlighting certain computation errors, had filed an application for rectification. Such rectification application was also dismissed by an order dated 28th November, 2024.

3. Mr. Sanyal, learned advocate appearing on behalf of the State would submit that issues raised in the petition, cannot be appropriately adjudicated since the same deals with disputes questions of fact. Further an appellate remedy had been provided for. This apart, the proper officer has already dismissed the application for rectification as well. According to him, the petitioner chose not to file any appeal. The orders impugned have been passed long back. There cannot be any urgency involved.

4. Having heard the learned advocates appearing for the respective parties, I find that though the order impugned is dated 30th August, 2024, the present writ petition has been filed on 1st May, 2025 that is nearly after eight months from the date of passing of the order. If the rectification application which has been filed on a very limited scope is taken into consideration, even, in such event, the petitioner is out of time for availing the ordinary remedy. There is also no appropriate explanation for the delay Admittedly, multi tiered adjudicatory process has

been provided for in order to test out the determination made by the proper officer under Section 73 of the said Act. The petitioner has not bothered to file an appeal. It is well settled that when a statutory mechanism has been provided to remedy the wrong, such remedy should not be ordinarily permitted to be bypassed especially when State revenue is involved. That by choosing to bypass the statutory remedy the petitioner has also successfully delayed the payment of at least 10% of the disputed amount.

5. Although, the learned advocate for the petitioner by relying on the Judgment delivered by the Division Bench of this Court in the case of ***Atree Overseas Private Limited v. Union of India*** reported in **2016(332) ELT 470(CAL.)** would submit that alternative remedy should not stand in the way of grating relief of the petitioner, I am of the view in the facts of this case, no relief can be afforded to the petitioner. The petitioner's case does not involve violation of principles of natural justice or an order passed by an authority without jurisdiction. In the application for rectification dated 4th October, 2024, no such case was made out. The petitioner had in fact questioned the determination by the above rectification application by contending that there is an error/ variation in the order and the demand in

form DRC 7. By order dated 28th November, 2024 the proper officer had rejected the rectification application by observing as follows:

> ***"****The total demand of ITC reversal was thus computed as Tax of Rs. 39091038(IGST), Rs. 18173798(CGST) and Rs. 18173798(SGST) and interest of Rs. 33933693(IGST), Rs. 15776099(CGST) and Rs. 15776099 (SGST)*
> *The RTP had failed to understand the computation of the ineligible amount of ITC and has surmised that the reconciliation provided by him has been accepted in its entirety. Hence the application of rectification of Adjudication Order was filed by him.*
> *However, in the light of the above discussion it is clear, that there has no mistake in the adjudication order that requires rectification. Hence the application for rectification is hereby rejected.****"***

6. Thus, no interference is called for.
7. The writ petition is accordingly dismissed with costs of Rs. 50,000/- to paid by the petitioner to the Calcutta High Court Legal Services Committee.

(Raja Basu Chowdhury, J.)