

06.08.2025
Sl. No. AD15
Ct. 05
Sayandeep

WPA 11681 of 2025

**Supreme Infotrade Private Limited & anr.
Vs
The Assistant Commissioner of State Tax, Refund
Vertical, WBGST & Ors.**

Mr. Ankit Kanodia
Ms. Megha Agarwal
Ms. Tulika Roy

...For the petitioners

Mr. Amitabrata Roy, Ld. GP
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal

...For the State

1. The present writ petition (WPA 11681 of 2025) has been filed, *inter alia*, for quashing the refund rejection order in form GST RFD 06 dated 11th March, 2025 and for a direction to re-credit and to in effect refund the excess amount recovered from the petitioner to the extent of Rs. 18,04,696/-. Records would reveal that on contest an order under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act) dated 14th June, 2023 for the tax period of July, 2017 to March, 2018 was passed. Even before the time to prefer the statutory appeal under Section 107 of the said Act expired on 3rd August, 2023, the petitioner No. 1's credit ledger was debited in respect of the entire demand raised by the respondents in form DRC 07 pursuant to the order dated 14th June, 2023 under Section 73 of the said Act in respect of the tax period of 2017-2018.

2. This prompted the petitioners to make a representation on 10th August, 2023. The same did not yield any result. The petitioner no.1 thereafter preferred an appeal before the appellate authority from the order dated 14th June, 2023. The appeal was heard without any further pre-deposit as would corroborate from the form GST APL 01 wherein the entire amount of tax is shown to be deposited. The appellate authority had disposed of the appeal by an order dated 29th August, 2024 thereby modifying the order passed by the adjudicating authority to a certain extent and a revised demand in form APL 04 dated 29th August, 2024 was raised.
3. Following the above, the petitioner once again requested the respondents to re-credit the amount which had been recovered from the petitioners after retaining 20% of the amount of tax in dispute. Such fact would corroborate from the communication dated 29th October, 2024. Since the aforesaid communication did not yield any result, the petitioners had applied for a tax refund in form GSTRFD 01 on 7th November, 2024. Such application came to be rejected by the order dated 11th March, 2025, inter alia, on the ground that there was no refund order passed by any authority, for the said refund to be processed in favour of the petitioners.
4. Having heard the learned advocates appearing for the respective parties, It would transpire that even before the statutory period for preferring an appeal from an order passed under Section 73 of the said Act dated 14th June, 2023 for the tax period of 2017-2018 had

expired, the entire tax was recovered from the petitioner No. 1 on 3rd August, 2023. Such fact would corroborate from the electronic credit ledger statement enclosed to the petition. Although, the petitioners had made representations before the authorities, such representations were kept pending. In the interregnum, the statutory appeal filed by the petitioners from the order passed under Section 73 was decided by treating the recovery as a pre-deposit. Even after the appeal was disposed of and a revised demand was raised, in form APL 04, the respondents did not refund the balance amount by retaining 20% of the amount of tax in dispute. The refund application filed by the petitioners has also been rejected, *inter alia*, on the ground that there is no order for refund, passed by any authority. The aforesaid appears to be entirely irrational. At the first instance, the authorities committed a grave error in recovering the tax demand prior to the expiry of the statutory period for preferring the appeal. Even thereafter, despite repeated representations, they have held back the amount. The Statute recognizes the right of the petitioner to maintain an appeal by depositing 10% of the tax in dispute from an order passed by the proper officer. Similar statutory remedy from an order passed under Section 107 by the appellate authority is also available by making a further pre-deposit i.e. 10% of the remaining amount of the tax in dispute before the appellate Tribunal. Admittedly, the appellate tribunal is yet to be constituted. The petitioner has, however,

approached this Court challenging the above appellate order dated 29th August, 2024 in WPA 17011 of 2025.

5. Independent of the above, considering the fact that the respondents at best could have been entitled to 20 per cent of the amount of tax in dispute, having regard to the provisions contained in Section 107(6) and Section 112(8) of the said Act, I am of the view that the balance amount ought to be refunded to the petitioner No. 1. Accordingly, I direct the respondent No. 1 to refund the balance amount to the petitioner's electronic credit ledger within a period of one week from the date of communication of this order.
6. As sequel thereto, the order passed by the respondent No. 1 on 11th March, 2025 be set aside. The writ petition being WPA 11681 of 2025 is accordingly disposed of.

(Raja Basu Chowdhury, J.)