

N.22Sl

WPA 20674 of 2025

151/CL

Indrani Dhar & Anr.

11.11.25

v.

Sl-23

The State of West Bengal & Ors.

Ct.551

(S.R.)

Mr. Anup Dasgupta

Mr. B. Sengupta ... for the petitioners.

Mr. N. Chatterjee

Mr. Tanoy Chakraborty

Mr. Saptak Sanyal ... for the State respondents.

1. This writ petition assails an order dated June 26, 2025 passed by the appellate authority under Section 107 of the WBGST Act, 2017 whereby the petitioners' appeal against the order dated May 22, 2024 passed under Section 74(9) of the said Act of 2017 has been dismissed.
2. Mr. Dasgupta, learned advocate appearing for the petitioners submits that the adjudication order passed under Section 74 of the said Act, 2017 could not have been passed against the petitioners inasmuch as the petitioners were not suppliers and that being so incidence of tax could not have been on the petitioners. In support of such submission, the petitioners rely on a circular bearing No.57/31/2018-GST dated September 4, 2018 issued by the Central Board of Indirect Taxes and Customs.
3. Attention of this Court is also drawn to page no.3 of

the adjudication order where a letter dated February 24, 2021 written by the petitioner no.1 to the Assistant Commissioner of State Tax has been noticed. Taking this Court through the said letter it is submitted that under the cover of the said letter various documents as mentioned therein were brought on record to buttress, the petitioners' contention that the petitioners were merely the agents of the supplier and not the supplier itself. It is submitted that despite those documents having been brought on record, the adjudicating authority proceeded to pass the adjudication order imposing tax on the petitioners, which the petitioners were never liable to pay.

4. Mr. Chakraborty, learned advocate appearing for the respondents submits that although the said letter has been taken note of by the adjudication authority, it will appear from the observations made by the adjudicating authority at page 4 of the order that the documents mentioned in the said letter were never uploaded on the relevant portal of the GST authorities.
5. In response to such submission, Mr. Dasgupta, learned advocate appearing for the petitioners submits that the said documents were, however, subsequently resubmitted before the adjudicating authority and the adjudicating authority should

have, therefore, taken the same into consideration, as the same had important bearing on the petitioners' case.

6. Heard the learned Advocates for the respective parties and considered the material on record.
7. The appellate order, which spreads over two pages provides no reason to support the ultimate conclusion that the appellate authority has reached. The first page and more than a half of the second page of the two pages order have been devoted to note a brief history of the case, statement of facts, grounds of appeal and the prayer. The only paragraph that has been written by the appellate authority in support of his conclusion falls short of even a modicum of reasoning. The same is extracted hereinbelow: -

“ Observation of the Appellate Authority: Gone through the statement of facts and grounds of appeal, and the order passed by the Ld. Assistant Commissioner State Tax, Ballygunge charge vide order no.ZDI905240367165 dt. 22.05.24 for the period from 01.04.2019 to 31.03.2020 amounting to Rs.2592206.00 (CGST Rs.458859.00, CGST interest Rs.378385.00 CGST Penalty Rs.458859.00 SGST Rs.458859.00, SGST Interest Rs.378385.00, SGST Penalty Rs.458859.00) inform DRC 07 u/s 74 of WBGST Act 2017 and CGST Act 2017, read with rule 142(5) of WBGST Rule 2017, has also been examined. At the time of hearing Mr. Aloke Kumar Ghosh (Adv) submits documents in support of his

claims made in the grounds of appeal which was also submitted by the appellant at the time of adjudication also and after examination of all the documents submitted by the appellant as well as the order passed by the proper officer, I find no reason to interfere into the order passed by the proper officer as he has passed the order properly as he has passed the order properly as per the provision of law under the WBGST Act 2017 read with corresponding WBGST Rules 2017.

Hence the order of the Proper Officer is confirmed and the appeal petition filed by the petitioner is rejected. The appeal petition is thus disposed of.”

8. Section 74(12) of the said Act of 2017 now mandates that reasons must be provided to support the ultimate decision. Even otherwise, reasons have been held to be the live link between the narrative and the directive. Absence thereof can render an order a nullity.
9. A perusal of the appellate order impugned herein reveals that the appellate authority has not applied his mind to the matter at all and has dittoed the order passed by the adjudicating authority without delving into the facts of the case before him. The statement of facts and the grounds of appeal presented by the petitioner before the appellate authority have been annexed at pages 150 to 159 of the writ petition. The same do not appear to have been considered by the appellate authority at all in reaching the conclusion that he has by the order

impugned. The order impugned is wholly unreasoned and the same therefore cannot sustain scrutiny of this Court under Article 226 of the Constitution of India.

10. The order dated June 26, 2025 is set aside and the matter is remanded to the appellate authority for fresh consideration of the appeal, in accordance with law. It is clarified that this Court has not gone into the merits of the matter and all points will be left open to be decided by the appellate authority in accordance with law.
11. WPA 20674 of 2025 is disposed of. There shall, however, be no order as to costs.
12. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)