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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27169 of 2024

M/s. Diamond Timber Industries
Versus
Superintendent of CGST & CX, Range I, Singur CGST & CX Division, Howrah Commissionerate & Ors.

Mr. Rishav Manna
... For the petitioner.

Mr. Vipul Kundolia
Mr. Soumen Bhattacharjee
... For Union of India

Mr. A. Ray
Md. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
Mr. Debraj Sahu
... For the State.

Mr. Kaushik Dey
Mr. Abhradeep Maity
... For the CGST authorities.

1. The matter pertains to the challenge to an adjudication order dated 17th August, 2024, passed under Section 73 of the CGST/WBGST Act, 2017 (hereinafter referred to as the "said Act"), wherein the Input Tax Credit (ITC) claimed by the petitioner had been disallowed on the ground that the return under Section 39 of the said Act in Form GSTR-3B had been filed beyond the stipulated date.

2. *Prima facie* upon going through the materials on record since it appears that the petitioner seeks the benefit of Section 16(5), having regard to the

insertion of this Section in the GST Act and noting that the actual date of submission of the return concerning tax period August, 2019 to March, 2020 is not later than 14th January, 2021, I am of the view that the matter should be remanded back to the proper officer for the petitioner to avail the benefit of Section 16(5) of the said Act.

3. Accordingly, the order dated 17th August, 2024 is set aside and the matter is remanded back to the proper officer for reconsideration of the matter, having regard to the insertion of Section 16(5) in the said Act.

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

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)