g.b. 07

24.02.2025

Ct. No.05

WPA 63 of 2025

M/s SHM Trading Company & Ors.
Vs.
Union of India & Ors.

Mr. Debdatta Saha
Mr. Rhiddhiman Mukherjee
Mr. Abhik Chitta Kundu
.......For the Petitioner
Mr. Amal Kumar Datta
Mr. Subrata Ray
.....For the Union of India
Mr. Bhaskar Prosad Banerjee
Mr. Tapan Bhanja
.....For Respondent CGST & CX

1. Affidavit of service filed in Court today is taken on record.

2. Challenging the order dated 27th August, 2024 passed by the Appellate Authority in FORM GST APL-04 whereby the departmental appeal challenging the refund sanction order dated 11th May, 2023 and the review order dated 8th November, 2023 was allowed, the instant writ petition has been filed.

3. Prima facie it appears to this Court that the order passed by the Appellate Authority under Section 107 of the CGST Act, 2017 is an unreasoned order. Although one of the grounds for allowing the appeal was the mechanical approach in issuing the refund order and the order not recording correct verification of the reason of accumulation of credit,

as both inward supply and outward supply pertains to the same rate categorise, the appellate authority also did not decide on the same. Despite the appellate authority noting that the main issue in the case was whether the refund sanctioning authority correctly mentioned the reason for accumulation of credit, no attempt was made by the appellate authority to decide the same. By treating the same as a non-speaking order the same had been set aside. Since, one ground of challenge by the department was with regard to non-speaking nature of the order, I am of the view that the same ground is also equally applicable to the order passed by the Appellate Authority.

4. Having regard to the above, this Court is of the view that the matter should be remanded back to the Appellate Authority for passing a reasoned order and upon giving an opportunity of hearing to the petitioner and by verifying the credential of the petitioner having regard to the scope of refund under Section 54(3) (ii) of the said Act.

5. With the above observation and direction WPA 63 of 2025 stands disposed of. There shall be no order as to costs.

6. All parties are to act on the server copy of this order duly downloaded from the official website of this Hon'ble Court.

(Raja Basu Chowdhury, J.)