03. **14.05.2025**
Court No.05.

(Pritam)

WPA 137 of 2025

Ultratech Cement Limited

-Vs.-

The Commissioner (Appeals), CGST & CE, Siliguri (Appeals) Commissionerate & Ors.

Mr. Arnab Chakraborty,
Mr. Aniket Chaudhury.
...for the writ petitioner.

Mr. Uday Sankar Bhattacharya,
Mr. Tapan Bhanja.
...for the CGST Authority.

1. Challenging the order dated August 7, 2024 passed by the Appellate Authority under Section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") which stood dismissed by reasons of the same being manually filed, the instant writ petitioner has been filed.

2. To understand, the scope of the writ petition, it is necessary to understand the facts leading to filing of the writ petition. The petitioner is engaged in the business of manufacture and supply of cement and clinker. With effect from October 1, 2019 the petitioner had acquired the cement business of M/s. Century Textiles and Industries Limited on the basis of a Scheme of demerger duly sanctioned by the National Company Law Tribunal, Mumbai Bench in Company Scheme Petition No.4236/2018 dated July 3, 2019. The said Century

Textiles and Industries Limited (in short the said Century Textiles) has been referred to therein as the demerged company while the petitioner herein has been referred to therein as a resulting company. According to the petitioner, consequent to the aforesaid, the petitioner had applied for and had obtained the registration number from the GST authorities as would appear from GST REG 06 wherein the date of liability is recorded as July 1, 2017.

3. Mr. Chakraborty, learned advocate representing the petitioner submits that although, the respondents were duly put on notice with regard to the aforesaid demerger, the respondents citing technical issues continued to audit the books of accounts of the said Century Textiles now held by the petitioner in the name of Century Textiles.

4. Though the disputed period pertained to the financial year 2017-2018 to 2019-2020 when the said Century Textiles was in existence as a going concern, however, as the show-cause notice dated March 29, 2023 was later issued under the provisions of Section 73 of the said Act in respect of the tax period July 2017 to March 2018 and financial year 2018-2019, the show-cause ought to have been issued in the name of the petitioner as the said Century Textiles had by then demerged and the manufacturing unit with the capacity of 2 million tonnes per annum, Sonar Bangla Cement, Dhalo

Gankar, Raghunathganj-I, Murshidabad, West Bengal was taken over by the petitioner. Despite the aforesaid, the above show-cause was issued in the name of Century Textiles.

5. The petitioner upon receipt of the show-cause had duly responded to the show-cause by communication in writing dated October 13, 2023. The aforesaid show-cause ultimately culminated in the adjudication order under Section 73(9) of the said Act dated December 15, 2023. Admittedly, the said order was passed in the name of Century Textiles and was not uploaded on the petitioner's portal. This compelled the petitioner to file a manual appeal along with the pre-deposit as is required for maintaining the appeal. Unfortunately, the Appellate Authority by keeping its eyes shut to the practical difficulties faced by the petitioner and by ignoring the legal consequences of an order of demerger, *inter alia,* including the fact that the order impugned which forms subject matter of challenge before the Appellate Authority was not uploaded on the website of the petitioner, had proceeded to reject the appeal on the ground that the same had been filed manually *de hors* the provisions of Rule 108 of the WBGST/CGST Rules, 2017 (hereinafter referred to as the "said Rules").

6. Mr. Bhattacharya, learned advocate representing the respondents has acknowledged the fact that the said Century Textiles had been demerged vide order dated

July 3, 2019 and in ordinary course all proceedings, subsequently to the effective date as provided for in the said order that is October 1, 2019 ought to have been proceeded against the petitioner, i.e., Ultratec Cement, however, by reasons of the technical difficulties the same had been proceeded against the Century Textiles. According to him, the petitioner was kept informed with regard to the aforesaid. Due to inadvertence, the appeal in question has been dismissed by the officer concerned. He would submit that the matter may be remanded back to the Appellate Authority for a fresh adjudication on merits.

7. Having heard the learned advocates for the respective parties and noting that the petitioner was all along aware with regard to the developments as aforesaid and had participated in the proceedings, I am of the view that the matter be remanded back to the Appellate Authority, however, the appeal shall not be decided by the officer who had decided the same. To avoid all future complications, it is, however, directed that all orders passed in connection with the aforesaid appeal must be uploaded on the petitioner's portal in the name of the petitioner.

8. It is made clear that the show-cause and the order in original should be treated as a show-cause and an order in original issued against the petitioner.

9. With the aforesaid observations, the instant writ petition being WPA 137 of 2025 is disposed of.

(Raja Basu Chowdhury, J.)