02.07.2025
rc
Item No.11

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction

WPA No. 1228 of 2025
Sanjay Kumar Lohia
Versus
The Assistant Commissioner, Cooch Behar, Commercial Taxes & State, GST & Ors.

Mr. Dhiraj Lakhotia
Mr. Radhika Agarwal
Mr. Meghana Joshi ...for the petitioner

Mr. Pretom Das
Ms. Rima Sarkar ...for the State

Affidavit of service filed by the petitioner is taken on record.

Heard learned counsels for the parties.

The petitioner is aggrieved by the order passed by the appellate authority under Section 107 of the West Bengal Goods and Service Tax Act, 2017 (hereinafter referred to as "the Act of 2017") on January 20, 2025 turning down his prayer for refund of the IGST tax deposited by him, in confirmation of the order of the adjudicating authority.

Learned counsel for the petitioner submits that for the tax period April, 2018 to March 2019 the petitioner paid IGST to the tune of Rs.12,01,460/- instead of CGST and WBGST. Proceedings under Section 73 of the Act of 2017 was initiated against him. The petitioner deposited the said amount as CGST and WBGST for the said period following which the proceedings was dropped. The petitioner sought refund of the amount deposited as IGST since the said amount was already paid by the petitioner as CGST and WBGST. The adjudicating authority turned down the prayer of the petitioner solely on the ground that in the challan the period of tax has been recorded as 2019-20 instead of 2018-19. The appellate authority has also affirmed the said observation and rejected the appeal.

Learned counsel for the respondents submits that the petitioner ought to have filed a rectification application under Section 37/39 of the Act seeking rectification of the wrong entry in the challan.

I have considered the material on record. The authority, in accepting the payment of the petitioner as CGST and WBGST and dropping the proceedings under Section 73 of the Act, as in fact accepted payment made by the petitioner for the period 2018-19. It is also not in dispute that the petitioner paid the said amount under IGST for the same period, i.e. 2018-19. The document which stands in the way is the challan dated March 02, 2024 which refers to the tax period as 2019-20.

In my considered view, since the authority has accepted payment of tax by the petitioner for the period 2018-19 as IGST and WBGST and also the fact that the said amount was wrongly deposited by the petitioner as

IGST, the wrong recording in the challan of the tax period as 2019-20 should not stand in the way of refund of the excess amount doubly paid by the petitioner under the said head. There being admittedly no dues from the petitioner upto July, 2024, the petitioner cannot be deprived of refund of the excess amount deposited by himfor the year 2018-19.

In view of the above, the 1st respondent is directed to refund the amount of Rs. 12,01,460/- deposited by the petitioner as IGST within four weeks from the date of communication of the order.

With these observations, the writ petition is disposed of.

Since no affidavit has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

There will be no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)