Court No. 2
(1545)

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

07.11.2025
(JPD 20)
(S. Banerjee)

WPA 2264 of 2025

M/s. Mega Basket
Vs.
The Senior Joint Commissioner of State Tax, Siliguri Circle, Siliguri & Ors.

Mr. Sanjay Mazoomdar
Ms. Sukanya Adhikary
Mr. Anup Mitra
... for the petitioner

Mr. Subir Kumar Saha
Ms. Rima Sarkar
... for the State

Mr. Dilip Kumar Agarwal
Mr. Bishwaraj Agarwal
... for the respondent no. 4

The petitioner has alleged that the order under Section 73(9) of the WBGST Act, 2017 ('2017 Act', for short) has been passed without appreciating the provisions of Section 16(5) of the 2017 Act. The petitioner has filed an application under Section 148 of the 2017 Act for rectification of the aforesaid order dated August 28, 2024 but no decision on such application has been taken and keeping such application pending, a notice dated October 30, 2025 has been issued for recovery of the amount of tax, interest and penalty.

Mr. Saha, learned Additional Government Pleader, assisted by Ms. Sarkar, appears for the State. Ms. Sarkar submits that the order under Section 73(9) of the 2017 Act was passed in accordance with law. She further submits that the order passed under Section 73(9) of the 2017 Act is an appellable order and the petitioner has not approached the appellate authority.

Heard the learned advocates for the respective parties and perused the materials placed.

The question that arises for consideration is whether the order passed under Section 73(9) of the 2017 Act was passed after considering the relevant provisions of the 2017 Act and the circular dated October 15, 2024 issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs.

Since a rectification petition has been filed highlighting the aforesaid issues, this court is of the considered view that interest of justice would be sub-served if the concerned respondent authority is directed to consider the rectification petition and to dispose of the same within a stipulated timeframe.

In view thereof, the Senior Joint Commissioner of State Tax, Siliguri, being the 1st respondent, is directed to consider the rectification petition filed by the petitioner dated April 3, 2025 in accordance with law after giving an opportunity of hearing to the petitioner or his authorized representative and by passing a reasoned order which shall be communicated to the petitioner immediately thereafter.

The entire exercise shall be completed as expeditiously as possible, but positively within a period of four weeks from the date of receipt of a server copy of this order.

The respondent authorities are restrained by an order of injunction from giving any effect to and/or further effect to the notice dated October 30, 2025 till two weeks after the communication of the decision on the rectification petition.

With the above observations and directions, this writ petition stands disposed of.

(Hiranmay Bhattacharyya, J.)