IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Om Narayan Rai

WPA 24054 of 2025

Fratelli Vineyards Limited formerly known as Tinna Trade Limited & Anr.
Vs.
The State of West Bengal & Ors.

For the Writ Petitioners : Mr. Himangshu Kumar Ray, Advocate
Mr. Subhasis Podder, Advocate
Ms. Shiwani Shaw, Advocate
Mr. Gaurav Chakraborty, Advocate

For the State : Mr. Saptak Sanyal, Adv.

Hearing Concluded on : **February 23, 2026**

Judgment on : **February 23, 2026**

Om Narayan Rai, J.:

1. This writ petition is directed against an order dated June 17, 2025 passed by the appellate authority under Section 107 of the WBGST Act, 2017/CGST Act, 2017 (hereafter the "said Act of 2017").

FACTS OF THE CASE:

2. An adjudication order under Section 73 of the said Act of 2017 had been passed against the petitioner no. 1 (hereafter "the petitioner") on April 3, 2024 for the tax period of April, 2018 to March, 2019 thereby holding the petitioner liable for payment of tax on four counts i.e. short payment of

outward tax, short payment of tax on inward supply (RCM), excess availment of ITC on inward supply and ITC found reversible.

3. The petitioner carried the said order in appeal before the appellate authority and furnished its explanation why it was not liable to pay tax on the said grounds.

4. It is the petitioner's case that all documents in support of the petitioner's explanation had already been furnished before the adjudicating authority.

5. The appellate authority ultimately confirmed the adjudication order impugned before it by repeating the following after dealing with each of the aforesaid four grounds on which the petitioner was taxed:-

> *"As no further explanation and supporting documents have been furnished by the appellant at appeal stage, the findings of the adjuration officer stands valid and there is no reason to interfere his order."*

6. Feeling aggrieved thereby, the petitioner has approached this Court by way of the instant writ petition.

SUBMISSIONS ON BEHALF OF RESPECTIVE PARTIES:

7. Mr. Ray, learned Advocate appearing for the petitioner has taken this Court to the appeal (and especially the grounds thereof), filed before the appellate authority and sought to demonstrate that the petitioner's contention against the findings of the adjudication authority had been distinctly detailed in the appeal.

8. He further submits that the documents that were there before the adjudicating authority would have sufficed for reaching a proper conclusion

if the same had been examined in the light of the petitioner's contention in the appeal.

9. Mr. Sanyal, learned Advocate appearing for the respondent State authorities has little resistance to offer to the submissions made by Mr. Ray.

DECISION:

10. Heard learned Advocates appearing for the respective parties and considered the material on record.

11. The appellate order impugned does not show any application of independent mind by the appellate authority. The appellate authority has paraphrased the observations of the adjudicating authority and has clearly glossed over the explanations given by the petitioner against the observations made by the adjudicating authority in the petitioner's appeal before the appellate authority. Non-application of mind by the appellate authority is also evident from the repeated use of the same expression (which has already been extracted hereinabove) at the end of every conclusion that the appellate authority has reached in respect of every ground for demand of tax.

12. To wit, while the appellate authority has said that no further explanation was given it has clearly lost sight of the explanation actually given by the petitioner in the petitioner's grounds of appeal and has not dealt with the same. Such approach renders the appellate order uninformed and susceptible to reproach in judicial review.

13. When explanations had been given by the appellant, it was the duty of the appellate authority to look into the same, assess the worth thereof and then reach a conclusion. It could have very well rejected the explanations, if the same were not acceptable in law or fact but there should be reasons therefor. In the case at hand there is none. Similarly there is no consideration of the documents already on record. At least the order impugned does not reveal so.
14. On such ground alone, the appellate order impugned dated June 17, 2025 is set aside and the matter is remanded to the appellate authority for fresh consideration on merits in the light of the documents already on record and upon proper consideration of the petitioner's contention raised in the appeal filed before the appellate authority.
15. It is needless to mention that this Court has not gone into the merits of the petitioner's case and all points are left open to be decided by the appellate authority in accordance with law.
16. **WPA 24054 of 2025** stands **disposed of** with the above observations.
17. There shall be no order as to costs.
18. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

(Om Narayan Rai, J.)

(AD)