Item No.
SL.27
SD
17.2.26

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side.

WPA 28120 of 2025

M/s. Spandan Electrical
Vs.
The State of West Bengal & Ors.

Mr. Nilratan Banerjee
Mr. Arijit Dey ... For the Petitioner.

Mr. Tanay Chakraborty
Mr. Saptak Sanyal ... For the State.

This writ petition seeks issuance of a writ of mandamus commanding the respondent authorities to refund an amount of Rs. 2,85,636/- to the petitioner and restore the balance in the petitioner's electronic cash ledger.

It is the petitioner's case that the petitioner has with the intent of challenging an order dated October 14, 2025 passed by the appellate authority under Section 107 of the WBGST Act, 2017/CGST Act, 2017 put in a sum equivalent of 10 percent of the remaining tax in dispute in terms of Section 112 of the said Act, 2017 on November 20, 2025. It is submitted that the appeal before the Tribunal has also been filed on January 5, 2026 i.e. subsequent to the filing of the writ petition.

Mr. Dey, learned Advocate appearing for the petitioner submits that once the statutory pre-deposit in terms of Section 112(8) of the said Act of

2017 has been put in by the petitioner, the respondent/GST Authorities could not have proceeded to recover any sum from the petitioner on the strength of the adjudication order which was affirmed by the appellate order.

Mr. Chakraborty, learned Advocate appearing for the respondent/GST Authorities submits that he does not have instructions as regards the petitioner's contention of the pre-deposits having been made in terms of Section 112(8) of the said Act of 2017.

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

Since, it is the petitioner's contention that the petitioner has made the pre-deposit in terms of Section 112(8) of the said Act of 2017 and therefore, no recovery ought to have been made, the petitioner should be afforded an opportunity to make appropriate representation before the respondent/ GST Authorities indicating to them that payment has been made by the petitioner towards satisfaction of the provisions of Section 112(8) of the said Act of 2017.

In case the respondent GST Authorities are satisfied that payment/deposit in terms of the provisions of Section 112(8) of the said Act of 2017 has been made by the petitioner, the respondent GST Authorities would have to pay due respect to the provisions of Section 112(9) of the said Act of 2017 where it has been mandated that upon payment of the sum indicated in Section 112(8) being made, recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

If payment/deposit in terms of Section 112(8) of the said Act of 2017 has been done by the petitioner, the respondent GST Authorities would refund any sum that may have been recovered by the respondent GST Authorities in excess of the amounts required to be deposited by the petitioner in terms of Section 107(6) and 112(8) of the said Act of 2017. To be precise any sum that may have been recovered from the petitioner beyond or in excess of the amounts required to be deposited by the petitioner at the two appellate stages i.e. under Section 107(6) and under Section 112(8) of the said Act of 2017 taken cumulatively, shall be refunded.

The representation made by the petitioner in such regard shall be considered by the GST Authorities as expeditiously as possible and preferably within a period of two weeks from the date of receipt of the petitioner's representation.

It is made clear that this court has not gone into the merits of the petitioner's contention and the respondent GST Authorities shall be free to take an informed decision in the matter. The respondent GST Authorities shall also be free to call for any clarification from the petitioner that may be required for the purpose of verification of the petitioner's contentions.

WPA 28120 of 2025 stands disposed of.

(Om Narayan Rai, J.)