

08.04.2026
Court No.13
Item No.10
AP

**FMA 9 of 2025
With
CAN 1 of 2024**

**Bharati Sikaria
Vs.
Union of India and Ors.**

Mr. Souvik Guha
Mr. Siddhartha Dasgupta

... For the Appellant.

Mr. Kaushik Dey
Ms. Sweety Jha

... For the Respondents/CGST Authority.

1. The appeal is directed against an order dated 11th November, 2024 passed by a Single Bench of this Court. The grievance of the appellant is that the Assistant Commissioner (Systems), Kolkata South CGST & CX Commissionerate passed an adjudication order which contains certain clerical mistakes. The appellant applied under Sub-Section (3) of Section 74 of the Finance Act, 1994 entitled Service Tax, for rectification of the said mistakes, which has not been considered till date.

2. The Single Bench dismissed the writ petition since the appellant had a remedy of approaching an Appellate Authority instead of filing a writ petition under Article 226 of the Constitution of India.

3. This Court is of the view that when there is statutory provision permitting any Central Excise Officer to rectify any clerical error in his application, the appellant had rightly made such application which

ought to have been disposed of as expeditiously as possible or at the first instance.

4. Having regard to the above, this Court directs the Assistant Commissioner (Systems), Kolkata South CGST & CX Commissionerate to dispose of the appellant's application under Section 74 of the Finance Act, 1994 mandatorily and positively within a period of one month from the date of receipt of a copy of this order.

5. It is left open to the Assistant Commissioner (Systems), Kolkata South CGST & CX Commissionerate to decide whether the mistakes pointed out by the appellant are, in fact, clerical error or any mandatory order passed originally by him.

6. With the aforesaid direction, the impugned order dated 11th November, 2024 is set aside.

7. Accordingly, FMA 9 of 2025 is allowed and disposed of. Consequently, all connected pending applications, if any, are also disposed of.

8. There shall be no order as to costs.

9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)