26.02.2026
Piya
ct no. 5
sl. 16

In The High Court At Calcutta
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

WPA 56 of 2022

M/s. AL Rods Private Limited & Anr.
Vs.
Assistant Commissioner of Revenue, State Tax, Bureau of Investigation (North Bengal).

Mr. Vinay Sharff (VC),
Mr. Sandip Guha Roy
Mr. Ananda Paul
Mr. Kallol Ghosh
......for the Petitioner

1. The writ application has been preferred praying for setting aside of the order in Form GST DRC-07 vide order no. ZD191221001587M dated 03.12.2021 and refund of Rs. 9,16,588.00 paid towards CGST and WBGST under protest on behalf of the driver.

2. It is the case of the petitioner that the said order passed by the authority is bad in law as the same has been issued against the driver of the vehicle.

3. None appears for the WBGST. None appeared for the said respondent on the previous date also.

4. Learned counsel for the petitioners has brought the notice of this Court to the notice in this case, which has been issued to the driver.

5. In the order of detention dated 25.11.2021 at ii page 1, it has been categorically noted that in the invoices produced by the driver, the recipient is shown as the petitioner herein but without issuing any notice to the said petitioner, the said respondent authority, Assistant Commissioner of Revenue (respondent) has noted as follows:-

> ***"Sri Ram Suchit, the driver of the said vehicle appeared before the undersigned in connection with the interception of the said vehicle. He was asked to explain why the validity of the E-waybills was not extended. In response he failed to provide any satisfactory explanation."***

6. The driver in this case (obviously) could not answer the questions put by the said respondent. The respondent relying upon certain provision of WBGST has charged the driver of the said vehicle to explain the validity of the E-waybills and found that the E-waybills were invalid. The observation of the authority is that on 25.11.2021, it was found that the E-waybills had expired on 23.11.2021 at 11.59 P.M.

7. Admittedly, the respondent did not issue any notice to the petitioner herein who is the recipient of the goods.

8. As such a notice under Section 129(3) of the WBGST was served upon the driver.

9. Subsequently, a final order has been passed on 03.12.2021, against the driver of the vehicle and that the said order has been challenged herein.

10. This Court finds that it was the duty of the respondent herein to call for the said documents from the consignor or consignee (recipients) of the goods, which the respondent has admittedly not done.

11. It appears that the E-waybills were valid till 23.11.2021, 11.59 P.M. The respondent claims that the vehicle was intercepted on 24.11.2021 at 12.30 P.M. that is after 12 hours.

12. Admittedly, it appears that the vehicle was intercepted during transit and for whatever reasons, there could have been a delay in the said movement of truck/transportation, which neither the driver nor the parties herein **were given an opportunity to explain and the proceedings was drawn up.**

13. Thus, the said proceedings clearly suffers from violation of principle of natural justice and the respondent herein has acted in clear abuse of power and accordingly the impugned order is hereby set aside with liberty granted to the respondent to initiate a fresh proceedings as per the observations in this order against the concerned persons and on giving them an opportunity of hearing, permitting them to produce relevant documents, shall proceed in accordance with law.

14. **Writ application stands disposed of.**

15. All connected application, if any, stands disposed of.

16. Interim order, if any, stands vacated.

17. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)