

14.07.2022.
p.b.
Sl. No.12.

W.P.A. 14286 of 2022

Purulia Metal Casting Pvt. Ltd.
Vs.
Assistant Commissioner of State
Tax, Purulia Charge & Ors.

Mr. Sumit Ghosh,
Mr. Souradeep Majumdar.
.....for the petitioner.

Mr. A. Ray,
Mr. S. Mukherjee,
Mr. D. Ghosh,
Mr. V. Kothari.
.....for the State.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned action of recovery of the demand arising out of the adjudication order dated 14th December, 2021 by debiting from its electronic credit ledger such demand on 30th December, 2021 in violation of Section 78 of the WBGST Act, 2017 without giving any opportunity to the petitioner three months time to file the statutory appeal which is mandatory before initiating any recovery proceeding. Admitted position is that the adjudication order was passed on 14th December, 2021 while just within 16 days i.e. on 30th December, 2021 respondent authorities concerned has recovered the demand in question which is a clear violation of the aforesaid provision of Section 78 of the Act.

Considering the facts and circumstances of this case as appears from record and submission of the parties, this writ petition being WPA No.14286 of 2022 is disposed of by directing the authorities concerned to refund the money which it has collected in excess of demand in question which is required to be deposited as a pre-deposit for filing of appeal against the impugned adjudication order within 15th days from date on condition that petitioner will file the appeal against the impugned adjudication order within 15 days from date and if such appeal is filed by the petitioner within the time stipulated herein, the appellate authority concerned will consider the issue of limitation by taking a lenient view. In case petitioner fails to file appeal within the time stipulated herein, respondent authorities concerned will be free to take action in future for realizing the demand in question again. Liberty is given to the petitioner to file appeal offline since the time to file appeal online has already expired.

With this observation and direction, the writ petition being WPA No.14286 of 2022 is disposed of.

It is recorded that this Court has not gone into the merit of the adjudication order in question and that shall be decided by the appellate authority concerned.

SAG
SCIENTIFIC ADVISORY GROUP

(Md. Nizamuddin, J.)