

16.1.2023

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WPA 20541 of 2022

Ajay Kumar Maheshwari

Vs

Union of India & Ors.

Mr. Pranit Bag,

Ms. Shubhangini Singh,

Mr. Sushanto Vishwakarma,

Mr. A.K. Singh

... For the Petitioner.

Mr. Kaushik Dey,

Ms. Ekta Sinha

... For the CGST Authority.

Ms. Avipsa Sarkar

... For the UOI.

Mr. A. Ray, Ld. GP.,

Mr. T.M. Siddiqui,

Mr. S. Mukherjee,

Mr. D. Ghosh

... For the State.

Heard learned Advocates appearing for the parties.

Petitioner has filed this writ petition being aggrieved by the action on the part of the respondent WBGST Authority asking the petitioner for refund back the amount in question along with penalty and interest, which according to the respondent authorities was refunded due to mistake. By the earlier order of this court dated 9th January, 2023, Mr. Bag, learned Advocate appearing for the petitioner was asked to take instructions from the petitioner as to whether he is agreeable to refund the amount in question by installments to which Mr. Bag submits that the petitioner is agreeable to refund the same.

Considering the facts and circumstances of the case and submission of the parties this writ petition

being WPA 20541 of 2022 is disposed of by holding that the petitioner is liable to refund the amount in question which was received by him with interest. So far as the penalty is concerned on such refundable amount, petitioner is not liable to pay the same since admittedly the respondent/revenue authorities' own case is that the amount of refund in question was paid to the petitioner due to mistake on their part and for no fault on the part of the petitioner. Petitioner shall refund the amount in question along with interest to be calculated by the respondents after adjustment with the amount of Rs. 6 lakhs and odd, which according to Mr. Bag has already been paid by the petitioner, in two equal installments. First of such installment shall be paid by the petitioner within 15th of February, 2023 and second installment by 1st of April, 2023. In case of default in making payment by the installments within the time stipulated herein, this order will not have any force and the respondents authorities concerned shall free to take steps for recovery of the whole amount against the petitioner. On making of payment of installments, the same shall be immediately reflected in the Electronic Credit Ledger of the petitioner.

(Md. Nizamuddin, J.)

