

16.06.2025
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Sl. No. 03
Ct. No. 05

WPA 495 of 2024
With
CAN 1 of 2025

Bajaj Wheels Private Limited & anr.
Vs.
The Union of India & ors.

Mr. Himangshu Kumar Ray
Mr. Subhasis Podder
Ms. Shiwani Shaw
Mr. Animityra Roy
Mr. Gourav Chakraborty
Mr. Piyas Chowdhury

.... for the petitioner

Mr. Bhaskar Prasad Banerjee
Mr. Abhradip Maity

....for the CGST & CX

In re : WPA 495 of 2024
With
CAN 1 of 2025

1. Although an order was passed on 13th June, 2025, however, this matter has come under the heading "To Be Mentioned" to seek clarification. Since then the respective parties are permitted to reargue the matter.
2. In view thereof, the unsigned order dated 13th June, 2025 stands recalled.

In re : CAN 1 of 2025

1. Affidavit of service filed in Court is retained with the record.
2. The instant application has been filed, inter alia, praying for hearing of the writ petition on urgent basis.
3. Having regard thereto, the application is allowed and the writ petition is taken up for consideration.

4. CAN 1 of 2025 is accordingly disposed of.

In re : WPA 495 of 2024

1. It appears that on 4th March, 2025, this Court was pleased to pass the following order:

“Affidavit of Service filed in Court is taken on record.

Challenging the order passed by the Appellate Authority dated 18th December, 2024 allowing such appeal, arising out of an appeal filed by the department from the order dated 30th October, 2023 for the tax period 20th July, 2017 to March, 2018 against the dropping of the proceeding initiated on the strength of the show-cause – cum – demand notice dated 12th October, 2022 against the petitioner, the instant writ petition has been filed.

The petitioner would complain that the petitioner did not have adequate notice of the appeal to appear before the Appellate Authority and the appeal petition along with the grounds of appeal was also not served. Having heard the learned advocates appearing for the respective parties and noting that from the order dated 8th December, 2024 passed by the Appellate Authority, it is not clear whether the order impugned in the appeal had been set aside, since the operative portion of the order only records that the appeal has been allowed, I direct Mr. Banerjee, learned advocate representing the respondents to take appropriate instruction in this matter.

Liberty to apply for interim order, if occasion so arises.

List this matter in the Monthly List of April, 2025 under the heading ‘New Motion-1’.”

2. Having heard learned advocates appearing for the respective parties and noting that the appellate authority has allowed the appeal, I am of the view that no fruitful purpose would be served by keeping the matter pending. Though, the consequential direction of setting aside of the order passed by the adjudicating authority is not explicit from the order impugned, however, since the appellate authority in paragraphs 5.3 to 5.5 has been pleased to record that the

adjudicating authority has failed to examine the legality of ITC availed by the respondent who is the petitioner herein, under the various tables and the petitioner also having not submitted any clarification nor attended the personal hearing and also by noting that the adjudicating authority has failed to discuss the various issues involved and having not passed a speaking order, the said appeal was allowed. Although, the appellate authority was required to make such further enquiry as may be necessary so as to take a firm decision, the same has not been done. The appellate authority has only observed that the adjudicating authority has failed to examine the legality of ITC availed. The above direction is dehors the provisions of Section 107(11) and (12) of the said Act.

3. In view thereof, while setting aside the order impugned, including the order passed by the adjudicating authority dated 30th October, 2023, let the matter stands remanded back before the adjudicating authority for a fresh decision on merits.
4. It is made clear that this Court has not entered into the merits of the case and it shall be opened to the parties to raise all points before the adjudicating authority. The adjudicating authority is directed to decide upon the aforesaid within a period of eight weeks from the date of communication of this order by issuing an appropriate notice of hearing and by

affording an opportunity of hearing to the petitioner,
and to decide the same in accordance with law.

5. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)

