24.11.2025
Court No.551
Item No.11
sudipta

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 20364 of 2025

Laxmi Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Himangshu Kumar Ray
Ms. Shiwani Shaw
Mr. Subhasis Podder
Mr. Gaurav Chakraborty
Mr. Animitra Roy

...for the petitioner

Mr. S. K. Dutta
Mr. Tanoy Chakraborty
Ms. Sumita Shaw
Mr. Saptak Sanyal

..for the State

1. The petitioner assails an order dated June 25, 2025 passed by the Appellate Authority under Section 107 of the WBGST Act, 2017 / CGST Act, 2017 whereby the petitioner's appeal against an order dated April 19, 2024 passed under Section 73 of the said Act of 2017 has been dismissed.

2. Summarized briefly, the petitioner's case is that the petitioner missed to claim Input Tax Credit (hereafter "ITC") in respect of IGST pertaining to the months of May 2018, June 2018 and July 2018 while filing the monthly returns in Form GSTR-3B. The petitioner subsequently realized her

mistake and claimed ITC while filing the annual return in Form GSTR-9 for the year 2018-19.

3. A notice to showcause under Section 73 was issued to the petitioner calling upon the petitioner to explain as to why should the petitioner not be held liable to pay CGST amounting to Rs.2,19,033.03/- as also SGST to the tune of Rs.2,19,033.03/- for the period April, 2018 to March, 2019 along with applicable interest under Section 50 of the said Act of 2017. In the response to the said notice to showcause, the petitioner indicated to the authorities that the petitioner had by mistake not claimed ITC although the petitioner was eligible therefor in respect of financial year 2018-19 and that the petitioner had rectified such mistake by claiming the same while uploading Form GSTR-9 for the said financial year. It was indicated that upon the petitioner having claimed ITC in respect of IGST to the tune of Rs.3,54,457.99/-, the same should be offset against the demand of the tax on account of CGST and SGST and the petitioner would only be liable to pay a sum of Rs.83,608.07/- on account of taxes due and payable along with interest.

4. Such submissions of the petitioner did not find favour of the Appellate Authority and the Appellate

Authority ultimately rejected the petitioner's appeal by observing as follows:

> *"....The appellant contended that it happens as there is non claim of inward tax credit in the tune of Rs.3,54,457.99 under head of IGST in GSTR-3B. However, he has rightly claimed in both outward liability & inward tax credit for period April, 2018 and August, 2018 to March, 2019.*
>
> *His plea is devoid of logic, facts & proper explanation. No relief can be accorded to the appellant in absence of necessary documents.*
>
> *Considering the above observations and under the circumstances, I do not find any specific points that could warrant interference in the impugned order appealed against. No relief can be accorded to the appellant in absence of his representation and necessary documentary evidences.*
>
> *Under the circumstances, I have no alternative but to confirm the impugned order and reject the appeal."*

5. Evidently, the Appellate Authority has reached the conclusion without indicating as to why the petitioner's plea was *"devoid of logic, facts & proper explanation"*. The Appellate Authority has observed that necessary documents were absent but there is no indication as to what were the

necessary documents that were absent. The Appellate Authority has observed that representation of the petitioner is absent but such observation appears to be incorrect in view of the fact that a written representation made before the Appellate Authority has been annexed with the writ petition as Annexure P-16 at pages 140-141 of the writ petition.

6. Mr. Roy, learned Advocate appearing for petitioner has also relied upon a judgment of the Hon'ble Division Bench of this Court rendered in the case of **Pioneer Co-operative Car Parking Servicing and Constructions Society Ltd. Vs. State of West Bengal** reported in **(2025) 27 Centax 70 (Cal.)** which had held as follows:

> "34. In our view, the adjudicating authority ought to have considered the effect of GSTR-9 and the particulars furnished therein rather than to say that what was claimed in the annual return was not reflected in the return filed under GSTR-3B. This would be the proper manner in which the case had to be dealt with otherwise the purpose of filing an annual return in terms of Section 44(1) of the Act read with Rule 80 would become redundant."

7. The Appellate Authority has not indicated as to why claiming of ITC in respect of IGST in Form GSTR-9 would not enure to the benefit of the petitioner and as to why the said amount could not be offset with the claim of the department on account of CGST and SGST.

8. On such score alone, the order impugned dated June 25, 2025 passed by the Appellate Authority is set aside and the matter is remanded to the file of the Appellate Authority for fresh consideration, in accordance with law. The Appellate Authority shall take an informed decision on the basis of the law governing therein.

9. The petitioner shall be free to submit such other representation, clarification or explanation as the petitioner deems fit before the Appellate Authority within two weeks from date.

10. It is submitted by the petitioner that the deferential amount of the CGST and SGST being a sum of Rs.83,608.07/- has been paid by the petitioner after disposal of the appeal by the order impugned. The petitioner shall be at liberty to bring the said fact to the notice of the Appellate Authority.

11. Needless to mention that this Court has not gone into the merits of the petitioner's entitlement and the appellate authority shall be free to take a reasoned decision, in accordance with law.

12. WPA 20364 of 2025 stands disposed of with the above observations.

(Om Narayan Rai, J.)