

N.22S1

WPA 18923 of 2025

151/CL

Soumyendu Bikash Jana

15.12.25

v.

Sl-17

The State of West Bengal & Ors.

Ct.551

(S.R.)

Mr. Himangshu Kumar Ray

Mr. Subhasis Podder

Mr. Gourav Chakraborty

Mr. Animitra Roy

... for the petitioner.

Mr. Tanoy Chakraborty

Ms. Sumita Shaw

Mr. Saptak Sanyal

... for the State.

1. This writ petition assails an order dated July 18, 2025 passed under Section 107 of the WBGST Act, 2017/CGST Act, 2017 (hereinafter referred to as the 'said Act of 2017') whereby the petitioner's appeal against an order dated April 28, 2024 passed under Section 73 of the said Act of 2017 has been rejected.
2. The petitioner was issued a notice to show cause on December 23, 2023 thereby alleging that the petitioner had short paid tax on outward supplies during the period April 2018 to March 2019 and was liable to reverse excess Input Tax Credit (hereinafter referred to as the 'TTC') that the petitioner had availed.
3. The petitioner could not reply to the said notice to show cause. Ultimately, the adjudication order came to be passed on April 28, 2024. The petitioner carried the matter in appeal before the appellate authority and the appellate authority dismissed the

petitioner's appeal by the order impugned dated July 18, 2025. Hence the writ petition.

4. Mr. Ray, learned advocate appearing for the petitioner submits that at the time when the petitioner preferred the appeal, the petitioner had furnished with the appeal all the documents in support of the petitioner's contention that the petitioner was not liable to reverse any sum availed as ITC inasmuch as the petitioner had not availed any excess ITC.
5. Mr. Ray invited the attention of this Court to the documents annexed at pages 24 to 88 of the writ petition and submitted that all the said documents would substantiate the case of the petitioner, as made out before the appellate authority in the petitioner's appeal and summarized in the second paragraph of the said appeal under the caption "*facts in the matter*".
6. He further invites the attention of this Court to the pleadings in paragraphs 26 and 27 of the writ petition and submits that in the case at hand the petitioner has dealt with exempted goods and has also acted as a Goods Transport Agency (GTA) and that being so the petitioner is not liable to reverse any ITC availed by him. It is further submitted that in so far as the petitioner's supplies of taxable goods is concerned, the petitioner has already paid the

taxes and that being so, no excess ITC was availed by the petitioner. It is submitted that the appellate authority has not considered this aspect of the matter and has failed to appreciate the transportation bills duly produced before the appellate authority. It is submitted that the appellate authority has rejected the petitioner's appeal in a perverse manner. It is further submitted by Mr. Ray that after passing of the appellate order, the petitioner has already paid the differential amount of taxes for which the petitioner was liable.

7. Mr. Chakraborty, learned advocate appearing for the respondent GST authorities submits that the order impugned does not call for any interference.
8. Heard learned advocates appearing for the respective parties and considered the material on record. After perusing the order impugned in the light of the documents annexed with the writ petition at pages 74 to 88 thereof and the petitioner's case as summarized in the second paragraph of the appeal filed before the appellate authority (at page 72 of the writ petition) as well as the pleadings in paragraphs 26 and 27 of the writ petition, this Court is of the view that the appellate authority has failed to apply its mind to the matter properly and has rejected the petitioner's appeal without appreciating the worth of the documents presented before the appellate

authority by the petitioner. It has not been demonstrated before this Court by the Respondents that the documents contended by the petitioner to be there on record before the appellate authority were not there before the said authority. This establishes total non-consideration of material on record. Non-consideration of material on record has rendered the order impugned perverse.

9. On such score alone, the order impugned dated July 18, 2025 is set aside and the matter is remanded to the file of the appellate authority for considering the petitioner's appeal afresh in the light of the documents furnished by the petitioner along with the petitioner's appeal. The petitioner shall be permitted to file an additional reply or submission in support of the petitioner's contention. The appellate authority shall consider the petitioner's case in the light of the documents annexed to the appeal and the additional reply filed by the petitioner, and then dispose of the petitioner's appeal, in accordance with law within a period of six weeks from the date of communication of this order.
10. It is clarified that this Court has not gone into the merits of the petitioner's case and all points are left open to be decided by the appellate authority, strictly, in accordance with law.
11. WPA 18923 of 2025 stands disposed of with the

above observations.

12. There shall, however, be no order as to costs.
13. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)

