

Court No. 551
(266306)

WPA 12112 of 2025

22.12.2025
(AD 22)
(S. Banerjee)

M/s. Prakriti Eminent Height LLP
Vs.
Senior Joint Commissioenr of Revenue & Ors.

Mr. Indranil Banerjee
Mr. Subhajit Ray

...for the petitioner

Mr. N. Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal

...for the State

Ms. Prithu Dudhoria

...for the Union of India

1. The petitioner assails an order dated August 2, 2024 passed under Section 107 of the WBGST Act of 2017 whereby the petitioner's appeal against an adjudication order dated May 2, 2023 passed under Section 73 of the said Act of 2017 was dismissed.

2. It is submitted by the learned advocate appearing for the petitioner that although a proceeding under Section 73 could not have been initiated in respect of tax period 2018-18 after expiry of a period of three years from the due date of furnishing returns in respect thereof, yet, the respondents proceeded to initiate such proceeding and to adjudicate thereupon by passing the order impugned on

the strength of the following notifications issued by the State Government as well as by the Central Board of Indirect Taxes and Customs:-

"i) 13/2022-CT dated July 5, 2022

"ii) 1389-FT dated August 23, 2022"

3. It is submitted that the said notifications have been issued in contravention of the provisions of Section 168A of the said Act of 2017 inasmuch as the provisions of Section 168A, could have only been invoked in cases of *force majeure* situation, which had not arisen at the time when the aforesaid notifications were issued.
4. Having heard the learned advocates appearing for the respective parties and having considered the material on record, the writ petition is admitted.
5. As prayed for by the learned advocate appearing for the respondents, the respondents shall be at liberty to file their affidavits-in-opposition to the writ petition within four weeks from date.
6. The petitioner shall be at liberty to file reply thereto, if any, within two weeks thereafter.

7. The matter shall be listed for hearing immediately after expiry of the times fixed for exchange of affidavits.
8. If the petitioner deposits a sum equal to 10% of the balance tax in dispute in terms of Section 112(8) of the said Act of 2017 before the GST authorities and furnishes proof thereof to the said authorities within two weeks from date, the respondent GST authorities shall be restrained from recovering any sum from the petitioners on the strength of the order dated May 2, 2023, which was affirmed by the order dated August 2, 2024, impugned in the present writ petition, until further orders.
9. Mr. Banerjee, learned advocate appearing for the petitioner had handed up to the Court printout of an e-mail dated July 21 2025 issued by the Assistant Commissioner of Revenue intimating the petitioner of initiation of recovery proceedings against the petitioner on the strength of the aforesaid adjudication order.
10. It is clarified that since it has already been observed hereinabove that if the petitioner

deposits a sum equal to 10% of the balance tax in dispute in terms of Section 112(8) of the said Act of 2017, then the respondent GST authorities shall stand restrained from recovering any sum from the petitioner on the strength of the order dated May 2, 2023 which was affirmed by the order dated August 2, 2024 impugned in the present writ petition, therefore upon such deposit being made the said notice dated July 21, 2025 would also stand stayed until further orders.

(Om Narayan Rai, J.)