20.08.26
05Ct. No.10
Sws.M

WPA 19240 of 2024
with
CAN 1 of 2026

Manash Ghosh
vs.
Assistant Commissioner of Revenue, Baharampur Charge &Ors.

Mr. Avra Mazumder
Mr. Arindam Das
Md. Bani Israil
Ms. Alisha Das
Ms. Vedika Agarwal
Ms. Rupomita Ghosh
….for the petitioners

Ms. Smita Pal
….for the State

<u>In re. CAN 1 of 2026</u>

1. Affidavit of service filed in Court today is taken on record.

2. Learned counsel appearing for the petitioner submits that the present application being CAN 1 of 2026 has been filed challenging the issuance of a recovery notice dated 10.07.2026, demanding a Rs. 1,18,35,089.00/- for the Financial Year 2018-19 pursuant to the demand order in Form DRC-07 being Reference No. ZD1904240324878.

3. In response to the said notice, the petitioner submitted a reply dated 14.7.2026, thereby intimating concerned authority about the pendency of the main writ petition being WPA 19240 of 2024.

4. Learned counsel for the petitioner submits that the issue involved herein is covered under Section 16(5) of the Central Goods and Services Tax Act, 2017. (hereinafter referred to as the 'said Act').

5. The return has been filed on 02.02.2020 for the period in question, which is prior to the 30th day of November 2021. It is further submitted that sub Section 5 of Section 16 has come into effect from 20.07.2024 with retrospective effect from 01.07.2017. As a result of which the case of the petitioner for the period in question squarely falls within the period mentioned in Section 16 sub section 5 of the said act.

6. The petitioner is thus entitled to be benefit of section `16 of sub section 5 as inserted by the Finance Act 2024, giving retrospective protection for ITC in respect of Financial Year 2018-19 where return was filed before 30.11.2021.

7. Learned counsel appearing for the CGST seeks time to obtain specific instruction with regard to the applicability of Sub-section 5 of Section 16 of the said act to the facts of the present case.

8. Having considered the submission and the amendment to section 16(5) with retrospective effect from 1.7.2017, this court is prima facie of the view that the issue requires consideration as the demand pertains to Financial Year 2018-19 and return was filed on 2.2.2020 that is prior to 30.11.2021.

9. Let the matter be fixed on 25.08.2026.

10. In the meantime, the respondents are restrained from taking any coercive steps pursuant to the recovery notice dated 10.07.2026 till the next date of hearing.

(Smita Das De, J.)