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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 1860 of 2025

Amar Nath Jaiswal
Versus
The Assistant Commissioner of State Tax,
Howrah and Kadamtala Charge & Ors.

Mr. Ramesh Patodia
Ms. Megha Agarwal
... For the petitioner.

Mr. Anirban Ray, GP
Md. T. M. Siddiqui, AGP
Ms. Tanoy Chakraborty
Mr. Saptak Sanyal
.. For the State.

1. Affidavit of service filed in Court today is taken on record.
2. Challenging the order dated 28th August, 2024 passed under Section 73 of the West Bengal/Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “said Act”), in respect of the tax period April, 2019 to March, 2020, inter alia, on the ground that the order was passed beyond the statutory period as provided for in Section 73(10) of the said Act, the instant writ petition has been filed.
3. Ms. Agarwal, learned advocate appearing in support of the instant writ petition by drawing attention of

this Court to a notification dated 30th December, 2020 would submit that by the aforesaid notification, Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, on the basis of the recommendations made by the GST Council in exercise of power under Section 44(1) of the said Act had extended the time limit for furnishing the annual returns specified under Section 44 of the said Act read with Rule 80 of the West Bengal/Central Goods and Services Tax Rules, 2017, electronically through the common portal for the financial year 2019-20 till 28th February, 2021. According to her, by a further notification dated 28th February, 2021, the above period was extended till 31st March, 2021 and no further. According to her, the extension of the aforesaid period has the effect of enabling the authorities to pass an order under Section 73(9) of the said Act within the aforesaid extended period. In the instant case, however, the respondents by invoking the powers under Section 168A of the said Act through two several notifications dated 31st March, 2023 and 28th December, 2023 had extended the date of passing of the order under Section 73(9) of the said Act in respect of the financial year 2019-20 up to 31st day of August, 2024. According to her, there

was no *force majeure* condition prevailing by invoking the aforesaid provision and extending the period and on such ground not only the order passed under Section 73(9) of the said Act is unsustainable, the above notifications dated 31st March, 2023 and 28th December, 2023 are also bad and cannot be sustained.

4. Independent of the above, she would submit that the matter pertains to reversal of input tax credit by reasons of the registration of the three suppliers of the petitioner being retrospectively cancelled. On a show cause being issued, the petitioner had duly responded to the same and had categorically stated that the purchases made with the suppliers whose registration had been cancelled retrospectively had been done in regular course of business and in good faith. To substantiate the same not only invoices of the above suppliers, but ledgers and e-way bills for the relevant period in respect of the aforesaid three suppliers were also disclosed. By placing reliance on the order passed under Section 73(9) of the said Act, she would submit that although the proper officer had accepted the explanation given by the petitioner in respect of two suppliers, however, in respect of one particular supplier, namely, Shree Shyam Iron Steel Trading

Company without assigning any reason the reversal of input tax credit was upheld. This according to her is a failure to exercise jurisdiction. In the facts as noted hereinabove, she would submit that the order passed by the proper officer is not sustainable and should be set aside and pending hearing of this writ petition, the same should be stayed.

5. Mr. Sanyal, learned advocate representing the State respondents prays for an accommodation to take appropriate instruction with regard to the proper officer disallowing the contention of the petitioner in respect of only one of the suppliers namely, Shree Shyam Iron and Steel Trading Company without assigning any reasons therefor.
6. Having regard thereto, let this matter stand adjourned and be taken up for further consideration on 28th April, 2025.
7. Until further order, the impugned order shall remain stayed till the next date.

(Raja Basu Chowdhury, J.)