

M/L 336
14.07.2025
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Ct.5.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4133 of 2025

Suchismita Maji
Versus
Assistant Commissioner of CGST & CX,
Bankura Division, Bolpur Commissionerate & Ors.

Mr. Anil Kumar Dugar
... For the petitioner

Md. T. M. Siddiqui, Ld.AGP
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
... For the State.

Mr. Kaushik Dey
Mr. Tapan Bhanja
... For CGST authorities.

Mr. Prithu Dudhuria
... For Union of India.

1. The instant writ petition is being heard on the very short point as to whether the appellate authority is competent to accept any additional evidence in terms of the provisions contained in Rule 112 of the WBGST/CGST Rules, 2017 (hereinafter referred to as the “said Rules”).

2. The petitioner claims to be a registered tax payer within the meaning of the WBGST/CGST Act, 2017 (hereinafter referred to as the “said Act”) and in usual course of business, dealings and transactions, transacted with the respondent no.6. It is the petitioner’s contention

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that the petitioner claims to be the distributor of Liquefied Petroleum Gas (LPG) cylinder of the respondent no.6. The petitioner had also availed input tax credit in respect of her business dealing with the respondent no.6 concerning purchase of LPG cylinders. Unfortunately, according to the petitioner although, GST registration of the petitioner ought to have been quoted by the respondent no.6 in the invoices, the same had not been done. This resulted in an anomalous situation where although, the petitioner had transacted with the respondent no.6, the invoices did not show the registration number of the petitioner which resulted in non-reflection of the transaction in GSTR 2A.

3. Records would reveal that on the basis of the show cause issued on 28th December, 2023, in respect of the tax period April, 2018 to March, 2019 an order under Section 73 of the said Act was passed by the proper officer on 19th April, 2024.

4. Being aggrieved, the petitioner had preferred an appeal. In course of the appeal, the petitioner wanted to introduce a certificate issued for the respondent no.6 dated 10th August, 2024 to establish that it had transacted with the respondent no.6 and the error was by reasons wrong recording of the petitioners registration number in the invoices of the respondent no.6.

5. The appellate authority by placing reliance on Rule 112(1) of the said Rules had declined to accept the additional evidence at the appellate stage since the same

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does not meet the conditions for acceptance of additional evidence.

6. Since the above issue is only under consideration in this petition, it is necessary to appreciate the scope of Rule 112 of the said Rules, as such the same is extracted hereinbelow:-

“112. Production of additional evidence before the Appellate Authority or the Appellate Tribunal.

(1) The appellate shall not be allowed to produce before the Appellate Authority or the Appellate Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the Appellate Authority except in the following circumstances, namely,

(a) where the adjudicating authority or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted ;or

(b)where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the Appellate Authority; or

(c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority or, as the case may be, the Appellate Authority any evidence which is relevant to any ground of appeal; or

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(d) where the adjudicating authority or, as the case may be, the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the Appellate Authority or the Appellate Tribunal records in writing the reasons for its admission.

(3) The Appellate Authority or the Appellate Tribunal shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity—

(a) to examine the evidence or document or to cross-examine any witness produced by the appellant; or

(b) to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).

(4) Nothing contained in this rule shall affect the power of the Appellate Authority or the Appellate Tribunal to direct the production of any document, or the examination of any witness, to enable it to dispose of the appeal.”

7. As would appear from sub-rule (4) of the said Rules the Appellate Tribunal is competent notwithstanding the provisions contained in sub-rule (1) of the said Rules to permit production of any document or examination of witness for him to dispose of the case on appeal. Admittedly, such aspect has not been considered

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by the appellate authority. To that extent the order passed by the appellate authority appears to be mechanical.

8. In view thereof, without going into the correctness of the order, I propose to and do hereby set aside the order dated 29th October, 2024 and remand the matter back to the appellate authority with a further direction upon the appellate authority to permit the petitioner to lead additional evidence in the form of a certificate issued by the respondent no.6 dated 10th August, 2024.

9. The aforesaid order should not be construed as an order deciding on the evidential value, correctness or otherwise of the certificate dated 10th April, 2024 or the merits of the appeal.

10. The appellate authority shall be entitled to decide the appeal in accordance with law having regard to the observation made hereinabove.

11. It is expected that the appellate authority shall decide the appeal as expeditiously as possible, preferably within a twelve weeks from the date of communication of this order.

12. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)