

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Ct.551 **22.12.25**

Item No.16 Sws.M

WPA 7846 of 2025

**Tirupati Traders & Anr.
Vs
The Union of India & Ors.**

Mr. Himangshu Kumar Ray
Mr. Subhasis Podder
Mr. Sushant Bagaria
Mr. Gaurav Chakraborty
Mr. Animitra Roy

....for the petitioners

Mr. Bhaskar Prosad Banerjee
Mr. A. Maity

...for the CGST authority

Mr. Tilak Mitra
Mr. Amit Sharma
Mr. Abhishek Kr. Agarahari

....for the Union of India

1. Affidavit of service filed in Court today is taken on record.
2. This writ petition lays challenge to an order in original dated December 12, 2023 passed by the adjudicating authority under Section 73 of the WBGST Act, 2017/CGST Act, 2017.
3. Mr. Ray, learned advocate appearing for the petitioners submits that the order in original has been passed in gross violation of the principles of natural justice. It has been submitted that the reply to the notice to show-cause that has been furnished by the petitioners has not been considered by the adjudicating authority and that the adjudicating

authority has also not granted opportunity of personal hearing to the petitioners.

4. Mr. Ray further submits that the adjudication order has been passed on application of wrong provision of law and that in order to get the same corrected/rectified, the petitioners have approached the adjudicating authority by filing an application for rectification. Keeping such application for rectification pending, the respondents/CGST authorities have proceeded to recover amounts from the petitioners' electronic credit ledger on the strength of the order in original impugned in the present proceeding.
5. Mr. Banerjee, learned advocate appearing for the CGST authorities submits that this writ petition is not entertainable as the petitioner has a remedy of appeal and further because the writ petition is inordinately delayed. It is submitted that the writ petition throws challenge to an order in original passed on December 12, 2023 and as such the same should not be entertained.
6. It is further submitted that pendency of a rectification application cannot be cited as a good ground for belated approach to this Court.
7. Heard learned advocates appearing for the parties and considered the material on record.
8. It is evident from the records that the petitioners have approached the adjudicating authority by way

of an application for rectification and the same is pending. Since it is the petitioners' case that if the rectification application is decided favorably then the demand raised by the order in original may not survive, therefore it will be proper for this Court to direct the proper officer concerned to consider and dispose of the petitioners' application for rectification pending before such proper officer within a period of four weeks from the date of communication of this order.

9. Since it has been submitted on behalf of the petitioners, by referring to the print outs from the electronic credit ledger of the petitioners (annexure 'P9' at page 73 of the writ petition), that a sum in excess of 20% of the tax in dispute has already been recovered in recovery proceedings initiated on the strength of the order impugned herein, therefore, this Court is of the view that till such time the petitioners' application for rectification remains pending, the respondents/CGST authorities should not proceed to recover any further sum from the petitioners on the strength of the order dated December 12, 2023 impugned herein. However, it is made clear that such recovery shall only be stalled / halted if the respondents /CGST authorities are satisfied from the records of the petitioners' case that an amount in excess 20% tax in dispute as submitted by the petitioners has been recovered.

10. It is clarified that this Court has not gone into the merits of this case and all points are left open to be decided by the proper officer in accordance with law.
11. As requested by Mr. Ray, the petitioners shall be entitled to file an additional representation before the proper officer in support of the petitioners' application for rectification within a week from date.
12. WPA 7846 of 2025 stands disposed of with the above observations. No costs.
13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

(Om Narayan Rai , J.)