

02.09.2025
Item No.8
Ct. No.01
SM/RP

MAT/1429/2025
With
IA NO: CAN/1/2025
With
WPA 5057 of 2025

JAGAT SAHA
VS
STATE OF WEST BENGAL AND ORS.

Mr. Himangshu Kumar Ray, Adv.
Ms. Shiwani Shaw, Adv.
Mr. Subhasis Podder, Adv.
Mr. Gaurav Chakraborty, Adv.
Mr. Animitra Roy, Adv.
Mr. Piyas Choudhury, Adv.

...For the Appellant/
Writ Petitioner

Mr. Amitabrata Roy, G.P.
Mr. Tanoy Chakraborty, Adv.
Ms. Sumita Shaw, Adv.
Mr. Saptak Sanyal, Adv.

...For the State Respondent

1. This intra-court appeal has been filed by the writ petitioner being aggrieved by the order passed by the learned Single Bench directing the appellant to keep the bank guarantee alive and renewed till the pendency of the writ petition and directed that affidavit to be filed within four weeks. The appellant being aggrieved by such direction has filed such appeal and has submitted that the scope of the writ petition lies in a narrow campus and the same may be considered and disposed of in accordance with law.
2. With the consent of the learned advocates on either side, the writ petition as well as the appeal is disposed of by a common judgment and order.

3. The appellant had challenged the order passed by the appellate authority, namely, the Joint Commissioner of Revenue, State Tax, Raiganj Circle, dated 14th January, 2025. The appeal filed by the appellant under section 107 of the WBGST/CGST Act, 2017 (hereinafter referred to as 'the said Act') challenging the order dated 19th May, 2024, passed by the adjudicating authority wherein 200% penalty was levied under section 129(3) of the said Act, was partly allowed and the appellate authority has reduced penalty after considering the facts and circumstances of the case. The assessing officer levied the penalty on the ground that CR coil of 219.70 kg. was being transported from Dankuni to Raiganj without document. This was disputed by the assessee, which led to adjudication being done by the appellate authority on the said point. According to the appellant, the driver of the goods vehicle has produced upon interception before the STO the relevant documents, namely, the original invoice, E-Way bill and stock transfer voucher with regard to the consignment. These documents were examined by the authority and found to be correct. However, the appellate authority would state that since there is no additional place of business for the appellant, the transportation of the goods has to be deemed to be without proper documentation and though there was no *mens rea* to evade payment of tax, since the goods were transferred to a place which was not registered as an additional place of

business or a sister concern, imposed penalty at 100%. The appellate authority admits that the appellant had produced the necessary documents surprisingly in Form GST-MOV-01 as recorded by the State Tax Officer, Bureau of Investigation, Raiganj Zone. In the annexure where the documents have to be mentioned, it has been scored doubt, in other words, it would mean that no document has been attached. This is factually incorrect and has been noted so by the appellate authority.

4. Apart from that, from the annexures to the Stay petition we find that the tax invoice has been produced by the appellant which is recorded details which cannot be disputed by the Revenue. The E-Way bill dated 26th April, 2024, also mentions that the quantity of CR coil had 65.4 MT and it is to be shifted to Shri Radhaballbh Steel Processors at Dankuni, which is the appellant's job worker. The goods were transported from the Steel Authority of India Ltd. upon completion of job work. An invoice has been raised by the job worker dated 6th May, 2024, which also clearly sets out all the details as well the buyer's name, namely, the appellant. An E-Way bill has been generated for the purpose of stock transfer from the job worker's premises at Dankuni to the factory of the appellant at Chapduar, Raiganj, Uttar Dinajpur. Stock transfer voucher dated 14th May, 2024, has also been generated, which has not been disputed by the department and the stock transfer is supported by the document

issued by the transporter, namely, Mr. Subrata Sarkar dated 14th May, 2024, where the goods have been shown, where the consigner is the appellant, the address given is that of the job worker, consignee is the appellant and the place to be transported is Rajgunj, Uttar Dinajpur.

5. Thus, all the details will clearly reveal that there was absolutely no intention on the part of the appellant to evade payment of tax which has been admitted by the appellate authority but, however, the appellate authority did not set aside the penalty but reduced the penalty. Taking note of the peculiar facts and circumstances of the case, which has been set out above, we find that this is not a case where any penalty could have been imposed.
6. For the above reason, the appeal along with the application and the writ petition are allowed and disposed of and the order passed by the appellate authority as well as the adjudicating authority is set aside and the penalty imposed is deleted.
7. The appellant shall cancel the bank guarantee furnished in favour of the department and accordingly, the same shall stand released.
8. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

[T.S. SIVAGNANAM]
CHIEF JUSTICE

[CHAITALI CHATTERJEE (DAS), J.]