

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Ct.551 **05.01.26**

Item No.19 Sws.M

WPA 6693 of 2025

Samrat Chatterjee

VS

The Union of India & Ors.

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

....for the petitioner

Mr. Kaushik Dey
Mr. Tapan Bhanja

.....for the respondent Nos. 1, 2 & 4

Mr. Kaushik Dey
Mr. Anurag Roy

....for the respondent No. 3

Mr. P.K. Bhowmik

...for the Union of India

1. Affidavit of service filed in Court today is taken on record.
2. The petitioner assails an order dated January 14, 2025 passed by the appellate authority under Section 85 of the Finance Act, 1994 read with Section 35F of the Central Excise Act, 1944 whereby the petitioner's appeal against the order in original dated April 18, 2024 has been dismissed on the ground of non-compliance with the condition of statutory pre-deposit in terms of Section 35F of the said Act of 1944.
3. Mr. Ray, learned advocate appearing for the petitioner invites the attention of this Court two

cyber receipts dated September 23, 2017 (annexure P-3 at page 42 of the writ petition) and dated September 11, 2017 (annexed at page 43 of the writ petition) and submits that the petitioner had made payments of sums amounting to Rs.1,41,910/- and Rs.26, 920/- to the respondents/CGST authorities on account of service tax in respect of "*works contract service*" for the same year for which the order in original dated April 18, 2024 was passed.

4. It is submitted that since the petitioner has already made payment of the aforesaid sums in respect of service tax, the same should have been considered by the appellate authority and the condition of mandatory pre-deposit in terms of Section 35F of the said Act of 1944 should have been treated to have been complied with by the petitioner.
5. Mr. Dey, learned advocate appearing for the respondent authorities seeks time to take instructions as regards the payments made by the petitioner as evinced by the cyber receipts dated September 11, 2017 and September 23 of 2017 as aforesaid.
6. In such view of the matter, let a report in the form of an Affidavit be filed by the appropriate officer of the CGST Department indicating the reason or purpose wherefor the sums mentioned in the cyber

receipts dated September 11, 2017 and September 23, 2017 were deposited by the petitioner as also the heads under which the said sums have been accepted by the Department within two weeks from date.

7. List his matter for further consideration on January 27, 2026 under the same heading.

(Om Narayan Rai , J.)