03.08.2022
Sl. No. 157
Srimanta
Ct.No. 42

CRR/2508/2022

In the matter of :**Raj Kumar Mondal**

...petitioner.

Mr. Abhratosh Majumder, Adv.,
Mr. Rajdeep Majumder, Adv.,
Mr. Moyukh Mukherjee, Adv.,
Mr. Koustav Lal Mukherjee, Adv.,
Mr. Shakti Halder, Adv.

...for the petitioner.

By invoking Section 482 of the Code of Criminal Procedure the petitioner has prayed for quashing of Jorabagan Police Station Case No. 40/2022 dated 7th April, 2022 registered against the petitioner for the offence punishable under Section 132(1)(a), (b), (c), (f), (i) and (k) of the WBGST Act along with Sections 120B/403/409/420/465/467/468/471 of the Indian Penal Code on the ground that the petitioner carries on business after being registered under the SGST Act. His registration under SGST Act was cancelled on 3rd March, 2022. The cancellation order passed by the concerned authority was challenged by the petitioner by filing a writ petition under Article 226 of the Constitution. The said writ petition was dismissed on contest which prompted the petitioner to file an inter Court appeal being MAT 80/2022.The said appeal was allowed on contest vide judgement dated 8th March, 2022. The respondents were directed to restore the certificate of registration to the appellant within 48 hours from the date of receipt of the server copy of the order. Being armed by the order passed by the Division Bench of this Court in the aforementioned mandamus appeal, the petitioner made a representation on 11th March, 2022 requesting the Assistant Commissioner of State Tax to unblock the electronic credit ledger in the name of the petitioner. Since the opposite party did not take any decision on the basis of the representation filed by the petitioner, he was further compelled to file a writ petition being WPA No. 5509/2022. The said writ petition was disposed of by a Coordinate Bench on 30th March, 2022 directing the Assistant Commissioner of State Tax to consider and dispose of the petitioner's representation dated 11th March, 2022 in accordance with law and by passing a reasoned and speaking order within stipulated timeframe.

It is on record that the electronic credit ledger of the petitioner was unblocked on 6th April, 2022 by the Assistant Commissioner of State Tax under SGST Act. Surprisingly enough another officer under the same designation of Assistant Commissioner State Tax posted at Bureau of Investigation, South Bengal lodged a written complaint against the petitioner alleging commission of offence as aforesaid during the period which was the subject-matter of enquiry before the Division Bench in MAT No. 80/2022 and WPA No. 5509/2022.

It is submitted on behalf of the petitioner that the petitioner is the victim of wrath and vengeance of the concerned authority under the SGST Act and he is unnecessarily subjected to criminal offence on the basis of some fabricated and concocted written complaint.

The instant revision be admitted.

The petitioner is directed to issue notice upon the opposite party no. 2 under registered speed post with acknowledgement due and file affidavit-of-service within three weeks from the date of this order. The opposite party no. 1/State of West Bengal be served through the Learned Public Prosecutor, High Court, Calcutta.

In the meantime, there shall be an interim order of stay of all further proceeding in connection with Jorabagan Police Station/EB Case No. 40 dated 7th April, 2022 corresponding to GR Case No. 406/2022 presently pending before the Learned Chief Metropolitan Magistrate, Calcutta for a period of six weeks.

(Bibek Chaudhuri, J.)