

22.12.2025
Court No.551
DL/Item No.-10
[Milan]

WPA 18390 of 2024

With

CAN 1 of 2024

**Yogendra Singh
versus
State of West Bengal & Ors.**

Mr. Abhratosh Majumder, Sr. Adv.,
Mr. Sayan Sinha,
Mr. K. Roy

....for the Petitioner

Mr. N. Chatterjee,
Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal

....for the State

1. Affidavit of service filed in Court today is taken on record.

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2. CAN 1 of 2024 is an application seeking amendment of the writ petition by inserting a prayer to the effect that the circular no.177/09/2022-TRU dated August 03, 2022 issued by the Technical Officer, TRU, Department of Revenue, Ministry of Finance, Government of India cannot be given retrospective effect.
3. Mr. Majumder, learned senior counsel appearing on behalf of the petitioner submits that pleadings

in support of such prayer have been made in paragraphs 14 and 15 of the writ petition and grounds in support of such pleadings will be available as Ground Nos. V and VI in the writ petition.

4. Since the application for amendment only seeks insertion of a prayer on the basis of pleadings which are already there and since there would be no effect on the nature of the case made out in the writ petition by inserting such prayer therefore the same ought to be allowed.
5. Mr. Chakraborty, learned advocate appearing for the State respondents is unable to offer any such serious objection to such prayer for amendment that may persuade this Court to disallow the same.
6. In view thereof, the application being **CAN 1 of 2024** is **allowed disposed of** and the prayer “aa” as set out in paragraph 8 of the said application is treated as having been inserted in the writ petition. Although CAN 1 is disposed of, yet the same shall be retained with the records of this case for convenience of future reference.

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7. This writ petition assails an adjudication order dated April 25, 2024 passed under Section 73 of

the West Bengal Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017, *inter alia*, on the ground that the same has been passed by attributing retrospectivity to a circular dated August 03, 2022 and thereby holding the petitioner liable for tax and interest for the period April 2018 to March 2019.

8. Mr. Mazumder, learned Senior Advocate appearing on behalf of the petitioner submits that the order impugned has been passed on the basis of a circular dated August 3, 2022 which was not in existence during the relevant period for which the petitioner has been held liable to make payment of the alleged short paid tax.
9. Mr. Majumder hands up to Court a copy of an order dated March 31, 2023 passed by a Co-Ordinate Bench of this Court in WPA 5749 of 2023 [M/S.Bahula Transport vs. The State of West Bengal & Ors.] and submits that in a similar fact situation, this Court has entertained writ petitions and has granted interim relief to the petitioners on *prima facie* satisfaction that adjudication orders passed on the basis of a circular which was non-existent during the period for which the petitioner had been found liable to pay tax, cannot be sustained. It is further submitted that a series of

writ petitions on the self-same issue are pending adjudication before this Court.

10. Having heard the learned advocates for the respective parties and having considered the material on record, this Court is of the view that since this writ petition involves the same issue that is there in other cases which this Court has entertained and wherein this Court has passed interim orders therefore in this matter too, the same course should be followed. Accordingly, WPA 18390 of 2024 is entertained, despite availability of alternative remedy in tune with the order dated March 31, 2023 passed by a Co-ordinate Bench of this Court in the case of M/s. Bahula Transport (supra).

11. Since the petitioner has made out a prima facie case that the petitioner cannot be held liable to tax upon giving retrospective effect to a circular, there shall be an interim order to the effect that the respondents shall not proceed any further on the basis of the order impugned dated April 25, 2024 till the end of February, 2026 or until further order, whichever is earlier.

12. As prayed by Mr. Chakarabarty, learned advocate for the State Respondents, let affidavit-in-opposition to the writ petition be filed within four weeks from date.

13. Reply thereto, if any, be filed by the petitioner within two weeks thereafter.

14. Let this matter appear for hearing in the “Combined Monthly List” of **February, 2026**.

(Om Narayan Rai, J.)