09.04.2026
Sl.A528
Ct. 237.
Suman

WPA 25637 of 2024

Mrs. Sashi Prabha Agarwala
Vs.
The Assistant Commissioner, CGST and CX, Shyambazar Division, Kolkata North Commissionerate and Ors.

Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. P. Khaitan
..for the petitioner

Mr. Bhaskar Prasad Banerjee
Mr. Abhradip Maity
..for the respondents

Mr. Soumen Bhattacharjee
Mr. Ankan Das
Mr. Raunak Seal
Ms. Shradhya Ghosh
..for Union of India

It appears that the respondent authorities have initiated to a proceeding against the petitioner under the Finance Act, 1994, subsequent to the enactment of the Goods and Services Tax Act, 2017.

The applicability of the repeal provision, namely Section 174 of the Goods and Services Tax Act, 2017, has been the subject of consideration before various High Courts; however, no final adjudication has yet been rendered. It further appears that such proceedings have, in several instances, been stayed by way of interim orders.

Additionally, insofar as the facts of the present case are concerned, the proceedings appear to have been initiated solely on the basis of the petitioner's Income Tax Return for the assessment year 2015–2016, by issuance of a notice dated April 23, 2021.

Prima facie, this Court is not satisfied with the invocation of Section 73 of the Finance Act, 1994, for the purpose of applying the extended period of limitation.

In view of the aforesaid, the respondents are restrained from proceeding further pursuant to the order dated March 27, 2024, and the recovery notice dated August 2, 2024, for a period of three months from date.

The respondents shall file their affidavits-in-opposition within four weeks from date. Rejoinder thereto, if any, may be filed by the petitioner within two weeks thereafter.

List the matter after six weeks under the heading "Hearing."

(Kausik Chanda, J.)