

45. 09.04.2025
Court No.1
(Tanmoy)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

FMA 19 of 2024

**The Assistant Commissioner of State GST, Bureau
of Investigation (BOI), North Bengal
-Versus-
Ashok & Sons (HUF) & Ors.**

Mr. Subir Kr. Saha
Ms. Rima Sarkar
...for the appellant.
Mr. Jagriti Mishra
Ms. Ananya Bhattacharya
Ms. Mrinmayee Das
...for the respondents.

Dictated by Arijit Banerjee, J.

1. This appeal is directed against a judgment and order dated March 12, 2024, whereby a learned Judge of this Court allowed the writ petition of the respondent no. 1 herein being WPA 190 of 2023, by quashing orders issued by GST Authorities imposing penalty on the writ petitioner and directing refund of the penalty amount which the writ petitioner had already paid to the Authorities for releasing the concerned goods carrier in which they were transporting goods from Begusarai to Guwahati.
2. The short case of the writ petitioner is that there was break down of the goods carrier in Jalpaiguri and the carrier had to be parked in a

garage for repairs. Since it took some time for repairing the carrier, the e-way bill expired. By inadvertence, the validity of the e-way bill was not extended. There was no intention on the part of the writ petitioner to evade GST.

3. The learned Single Judge accepted the contention of the writ petitioner. His Lordship held that there was no lack of *bona fides* on the part of the writ petitioner. Hence, the writ petition was allowed.
4. One of the points urged before us by learned Counsel for the appellant is that the concerned garage bill in respect of the alleged car repairing has been found to be a fraudulent document. The garage owners have denied issuing such bill. This contention is based on an enquiry report dated January 31, 2023. Such report is, however, not on record.
5. Learned Advocate for the writ petitioner says that this is a new point that is being urged by the appellant. This point was never urged before the learned Single Judge.
6. Learned Advocate for the appellant says that since the Authorities were not granted an opportunity of filing affidavit-in-opposition before the learned Single Judge, the enquiry report could not be brought on record. However,

they would like to bring the same on record since the same is of vital importance. For this purpose the appellant would like to file an application under Order XLI, Rule 27 of the Civil Procedure Code, 1908, for producing additional evidence.

7. List this matter before the next available Circuit Bench. In the meantime, let necessary steps be taken by the appellant.

(Arijit Banerjee, J.)

(Biswaroop Chowdhury, J.)