

ORDER SHEET
WPO/1164/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BILTECH BUILDING ELEMENTS LIMITED
VS
STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 13th July, 2023.

Appearance:
Mr. Avra Mazumder, Adv.
Mr. Khetan Jain, Adv.
Mr. Suman Bhowmik, Adv.
...For the Petitioner
Mr. A. Ray, Ld. GP.
Mr. T.M. Siddiqui, Adv.
...For the Respondents

The Court: Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order in original dated 17th March, 2023 passed under Section 74(9) of the WBGST Act, 2017. Though the aforesaid impugned order is an appealable order under the statute but petitioner has raised the issue of classification of the material in question and in support of his contention Mr. Mazumder, learned advocate appearing for the petitioner has relied on an unreported decision of this Court dated 17th May, 2016 in WP 2905(W) of 2016 (Indian Oil Corporation Limited vs. Senior Joint Commissioner, Commercial Taxes & Ors.) and contending that the Writ Court can decide the issue of classification of the material. He further submits that there is a decision of the Division Bench also on this issue of classification of an item.

Considering the submissions of the parties and taking into consideration the aforesaid unreported decision, this writ petition being

WPO 1164 of 2023 is entertained and let the issues be decided on affidavits to be filed by the said respondents.

Let the respondents file affidavit-in-opposition within four weeks; petitioner to file reply thereto, if any, within two weeks thereafter.

There will be an interim order restraining the respondent WBGST Authority concerned from taking coercive steps for recovery of disputed demand arising out of the impugned adjudication order dated 17th March, 2023 on condition of making payment of 20% of the tax arising out of the impugned adjudication order within fifteen days from date and file proof of payment of the same before the respondent Authority concerned.

List this matter in the monthly list of October, 2023 for final hearing.

At the time of hearing, parties should be ready with short written notes of argument.

(MD. NIZAMUDDIN, J.)

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