14.10.2026
12
Ct. No.10
AGM

WPA 16747 of 2025

M/s A2Z Infra Engineering Ltd.
vs.
The Union of India &Ors.

Mr. Punit Agarwal
Mr. AvraMazumber
Ms. Alisha Das
Ms. Elina Dey
Ms. Rupamita Ghosh
....for the petitioner

Mr. Vipul Kundalia, Sr. Adv.
Mr. TapanBhanja
...for the Union of India
Mr. Nikunj Berlia. Ld. A.G.P.
Mr. Prithu Dudhoria.
....for the State

1. Notwithstanding due service State respondent remains unrepresented in Court today.
2. Mr. Nikunj Berlia, Ld. A.G.P. and Mr. Prithu Dudhoria, learned advocates are engaged in this matter on behalf of the State. Their appearances be accordingly regularized from the office of the Government Pleader.
3. Affidavit of service filed in Court today is taken on record.
4. The petitioner challenges inter alia, the legality and sustainability of the adjudication order dated 27.08.2024, rectification order dated 06.01.2025, the appellate orders dated 06.02.2025 and 07.04.2025 arising out of the aforesaid orders for the financial year 2019-20 passed under the CGST/WBGST Act, 2017.

5. The core issues involved in the instant writ petition is whether the aforesaid orders for the financial year 2019-2020 are liable to be quashed and set aside on the ground that the petitioner cannot be denied the benefit of the amendment introduced by way of insertion of sub-section 5 of section 16 of the said Act vide the Finance (No. 2) Act. 2024, which retrospectively regularized the Input Tax Credit for financial year 2017-18 to 2020-21 if returns are filed up to 30th November, 2021.

6. It is submitted the Section 16(5) of the said Act, subsequently inserted with effect from 1st July, 2017 by amending Section 16, provides:

> ***"(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021."***

7. It is contended that the petitioner filed the GSTR-3B returns for July, 2018 to March, 2020 prior to 30.11.2021. By virtue of the inserted clause, as amended in section 16, the petitioner cannot be

denied the benefit of such amendment. Hence, the input tax credit denial is illegal.

8. The petitioner submits that for the year 2019-20, respondent no. 9 imposed a demand of Rs. 3,60,04,668/- on the petitioner vide order in original dated 27.08.2024.

9. Notwithstanding the insertion of the clause introduced by the Finance (No. 2) Act. 2024, the respondent authorities have issued the impugned order dated 27.08.2024 for the financial year 2019-20.

10. In the present case the petitioner filed the return beyond due date but prior to 30th November, 2021.

11. In this context, the petitioner relies upon a judgment of a Co-ordinate Bench of this Court in the case of ***Hiranmoy Dutta vs. State of West Bengal*** reported in ***[2025] 172 taxmann.com 750 (Calcutta)***at paragraph 6, which is reproduced below:

> ***"6. Having heard the learned advocates appearing for the respective parties and noting that in this case, the ITC had been disallowed by reasons of the petitioner filing the return in Form GSTR 3B beyond the due date, and on the basis of insertion of subsection (5) to Section 16, the returns filed by the petitioner which are in respect of the tax period from July, 2018 to March 2020 have now been regularized having***

regard to the new cut of date provided for in Section 16(5) of the said Act, I am of the view that the petitioner cannot be denied the benefit of the aforesaid amendment."

12. It is further submitted by the petitioner that during the pendency of the writ petition, the Electronic Credit Ledger has been blocked by the authority concerned for the period from 01.04.2026 to 05.10.2026.

13. During the pendency of the writ petition, an amount of Rs. 1,92,03,770/- has been debited from the Electronic Credit Ledger of the petitioner on 17th August, 2026 towards recovery of the disputed demand without prior intimation to the petitioner or affording any opportunity of being heard, such action of the authorities is illegal, arbitrary, in excess of jurisdiction and is not sustainable and impermissible under the law.

14. A copy of the Electronic Credit Ledger has been brought on record by way of a supplementary affidavit and the same be kept on record.

15. Learned counsel appearing for the respondent authorities vehemently opposes the same and submits that the case of the petitioner does not squarely fall within the inserted clause which has been introduced with effect from 1st July, 2017 and the order has already been passed by the

authority concerned. The order in original dated 27.08.2024 has already attained its finality.

16. Section 16(5) cannot be invoked to reopen a concluded assessment. The benefit of the amendment is conditional upon the filing return by 30th November, 2011. The petitioner has failed to demonstrate such compliance.

17. Having heard the parties and upon perusing the record, this Court finds that the petitioner has made out a *prima facie*case and interference is warranted, at this stage.

18. This Court finds that by virtue of the inserted clause, as amended in Section 16, the petitioner cannot be denied the benefit of such amendment. The amendment is curative and retrospective from 01.07.2017.

19. The ratio in Hiranmoy Dutta (supra) is squarely applicable. Once returns are filed by 30.11.21, input tax credit for July 2018 to March 2020 is regularized.

20. In view of the above, the orders dated 27.08.2024, 06.01.2025, 06.02.2025 and 07.04.2025 are hereby quashed and set aside and accordingly, the writ petition is allowed and disposed of.

21. The order dated 27.08.2024 shall be re-adjudicated including the issue of blocking of Electronic Credit Ledger by respondent no. 9 in

light of Section 16(5) of the said Act. The respondent authorities are restrained from taking any other coercive steps till the date of re-adjudication.

22. However, it is made clear that the respondent no. 9 shall complete the entire exercise of readjudication by affording an opportunity of personal hearing and pass a reasoned and speaking order on or before 30.11.2026 in accordance with law. Such decisions shall be communicated thereafter.

23. Since no affidavit has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

24. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)