

**WPA 18137 OF 2022**

**23.08.2022**

Sl no. 7  
Ct no. 2  
P.M.

**Mr. Ajay Shaw, proprietor of M/s. Shaw Agency.**  
**- Vs -**  
**The Assistant Commissioner of State Tax,**  
**Bureau of Investigation (South Bengal), Howrah**  
**Zone, Govt. of W.B. & Ors.**

Mr. Ankit Kanodia,  
Ms. Megha Agarwal,  
Mr. Jitesh Sah

... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader  
Mr. S. Mukherjee,  
Mr. D. Ghosh,  
Mr. D. Sahu

.... For the State

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the appellate authority under WBGST Act confirming the order of the adjudicating authority imposing the penalty for transporting the vehicle in question after expiry of the e-way bill which was expired on 22.08.2021 at 11.59 p.m. and the vehicle in question was intercepted at 9.30 p.m. on 23.08.2021 that there is a time gap between the expiry of the bill and interception of the vehicle in question is about 21 hrs., which is less than a day and writ petitioner submits that there was no intention of any evasion of tax on the part of the

petitioner and there was a genuine problem of break down of the vehicle in question.

Learned advocate appearing for the petitioner in support of his contention relies on an order of this Court dated 1<sup>st</sup> March, 2022 in WPA No. 11085 of 2021 in the case of Ashok Kumar Sureka – Vs – Assistant Commissioner, State Tax, Durgapur Range and also a Division Bench decision of this Court dated 12<sup>th</sup> May, 2022 in MAT No. 470 of 2022.

Learned advocate appearing for the respondents could not make out any case against the petitioner that there was any deliberate or willful intention of the petitioner to avoid and evade the tax.

In view of the facts and circumstances of the case which appears from record and considering the aforesaid two orders of this Court, this writ petition being WPA 18137 of 2022 is disposed of by setting aside the aforesaid impugned order of the appellate authority and adjudicating authority and as a consequence, petitioner will be entitled to get the refund of the tax and penalty in question subject to compliance of legal formalities.

With this observation this writ petition stands disposed of.

**(Md. Nizamuddin, J.)**