

06.03.2024
SL.21, Ct.3
SB

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Side

W.P.A. 1108 of 2022

Ranjan Sarkar

-Vs.-

The Assistant Commissioner of State Tax,
Alipurduar Range & Bureau of Investigation,
Unit IV, West Bengal Goods and Service
Tax & Ors.

Mr. Himangshu Kumar Ray

Mr. Abhilash Mittal

Mr. P. Karmakar

.....for the petitioner

Mr. Subir Kumar Saha

Mr. Dilip Kumar Agarwal

.....for the State

The issue involved in the present matter i.e. whether any interest can be levied under Section 50(3) of the West Bengal Goods and Service Tax Act 2017 in cases of wrong availment of Input of Tax Credit and reversal thereof, is no more res integra in view of Circular No. 192 /04/ 2023 – GST, dated 17.7.2023 and also the judgments of various High Courts in (2023) 150 taxmann.com 176 (Madras); (2023) 156 taxmann.com 325 (Punjab & Haryana) and order dated 13.12.2022 in the Writ Petition No. 2654 of 2020, *M/s. Larsen & Toubro Limited vs. State of West Bengal & Ors.*

Learned counsel for the respondents fairly states that there has been an amendment made in the Finance Act, 2022 in Section 50(3) with retrospective effect from 1st July, 2017 which entitles the petitioner not to pay the interest on

the Input Tax Credit availed and reversed but the same has not been utilized.

In view of the aforesaid facts and circumstances of the case, the present writ petition is allowed and the impugned order dated 15.10.2020 passed by the respondent no.2 and an order dated 11.01.2022 passed by respondent no.3 are hereby set aside and the petitioner is relegated back to the adjudicating authority for fresh consideration as per law.

(Gaurang Kanth, J.)