

22.12.2025
Court No.551
DL/Item No.-13
[Milan]

WPA 1808 of 2025

**Hooghly Motors Pvt. Ltd.
versus
The State of West Bengal & Ors.**

Mr. Avra Mazumder,
Ms. Alisha Das,
Ms. Elina Dey

....for the Petitioner

Mr. Nilotpal Chatterjee,
Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal

....for the State

1. This writ petition lays challenge to an order dated December 12, 2024 passed by the Appellate Authority under Section 107 of the WBGST-2017/CGST-2017, whereby the petitioner's appeal against an order dated 11th October, 2023 passed by the adjudicating authority/proper officer has been rejected.
2. By the order dated 11th October, 2023, the petitioner's request for refund of a sum of Rs.8,94,583/- had been rejected by the adjudicating authority.
3. Mr. Mazumder, learned advocate appearing for the petitioner has brought to the notice of this Court an order dated May 30, 2024 passed by the

appellate authority in the petitioner's own case where request for refund has been allowed by the appellate authority in a similar situation, by holding as follows:

"5. The appellant is a manufacturer of e-rickshaw, known as TOTO in common parlance. After verification of business activities of the petitioner, it has been ascertained that there is no way he can make outward supply of loudspeakers other than installing the device on e-rickshaws manufactured by the appellant, duly produced at the time of hearing. Thus, inward supply of loudspeaker in the instant case is concluded as inward supply of input to be used in the course or furtherance of business, as defined u/s 2(59) of the Act."

4. It is noticed that when this matter had been taken up by this Court earlier on April 23, 2025, this Court had noted the submissions of Mr. Mazumder that on identical grounds, claim of refund had been allowed by the Respondents in other matters and that this Court had, in such view of the matter, requested Mr. Sanyal, learned Advocate appearing for the State Respondents to take appropriate instructions.
5. Today, when the matter is taken up, Mr. Sanyal hands up to Court a copy of the instructions (being a print out of an e-mail dated July 01, 2025) forwarded by the Additional CCT/Law to the learned Advocate for the State Respondents and

submits that the petitioner is eligible for refund. The copy of the said instructions handed up to Court is taken on record. A copy thereof has also been served upon Mr. Mazumder, learned advocate appearing for the petitioner.

6. The relevant portion of the said e-mail dated July 01, 2025 forwarded to the learned advocate for the State respondents by the Additional CCT/Law, is extracted hereinbelow:

“1. In the matter of Hooghly Motors Pvt. ltd vs. State of West Bengal & ors (WPA no 1808 of 2025), the disputed fact is whether "stereo system" is an input/ raw material in manufacturing of e-rickshaw (HSN-87031090) or not and subsequently whether ITC involved in purchase of "stereo system" would be eligible for refund vide clause (ii) of first proviso to sub-section (3) of Section 54 of the both WB GST Act, 2017 and CGST Act, 2017(in short GST Act, 2017) or not. (under inverted duty structure)

2. There have been divergent opinions. In the instant case WPA 1808 of 2025 - the adjudicating authority has disallowed the RTP's claim of "stereo system" is an input/ raw material in manufacturing of e-rickshaw and the decision of adjudicating authority has been upheld by the appellate authority and that is under challenge in this Writ petition before the Hon'ble High Court. However, when the same issue was raised by the same RTP before another appellate authority in a separate case, the matter was decided in favour of the RTP. (vide appeal order dated 30.5.2024 passed by Sri Pinaki Banerjee Sr. JCR, State Tax)

3. Under the circumstances, the Hon'ble High Court has sought clarification from the Revenue on this issue.

4. Discussed the matter in detail with all the authorities concerned.

5. To examine the admissibility of refund of unutilised ITC in respect of purchase of stereo system, used in manufacturing of e-rickshaw, it is necessary to study the related definitions in the GST Act, 2017.

6. As per section 2(59) of GST Act, 2017, **input**" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.

7. Based on that, the criteria to qualify as "inputs" can be summarized as follows:

The items must not be classified as "capital goods" or "service"

The items must be received by a taxable person.

The term "any" [used in phrase "any goods"] is important here. Goods are not classified into any category except "capital goods". So, input could be any goods, be it raw materials, spare-parts, consumable stores, packing materials, store materials, freezing materials etc.

The items must be used or intended to be used in the course or furtherance of their business.

8. The term "business" is defined extensively and expansively under Section 2(17) of the CGST Act, 2017. The definition encompasses any trade, commerce manufacture, profession, vocation, adventure, wager, or any other similar activity. Crucially, the definition extends to activities that are connected, incidental, or ancillary to the primary business functions.

9. As per clause (ii) of first proviso to sub-section (3) of Section 54 of GST Act, 2017, refund of unutilised ITC shall be allowed "where the credit has accumulated on account of rate of tax on **inputs** being higher than the rate of tax on **output supplies**". From the condition given in the statute, no-where it has

*been prescribed that the inputs must be used in manufacturing of goods. Rather by the very definition of "input", it is clear that if an input used or intended to be used by a supplier in the course or furtherance of **business**, will be eligible for refund. It cannot be restricted only to the input/raw material of manufacturing something. On the contrary, "input" should be considered from the perspective of the business and not from the perspective of the manufacturing process- for obvious reasons, the ambit of business is much wider than the ambit of the manufacturing process.*

*10. So, any "input" used or intended to be used in the course or furtherance of **business**, will be eligible for refund of ITC in such scenario. If the goods are used or intended to be used by a supplier **in the course of furtherance of business** the supplier cannot be denied the benefit of refund.*

11. Therefore, it appears ITC involved in purchase of "stereo system" to be used in e-rickshaw would be eligible for refund vide clause (ii) of first proviso to sub-section (3) of Section 54 of the GST Act,2017".

7. On the basis of the aforesaid instructions, it is submitted by Mr. Sanyal that the respondents have in effect found that the petitioner is entitled to refund. The instructions indeed indicate so.
8. In such view of the matter, nothing further remains to be adjudicated in this writ petition. The appellate order dated December 12, 2024, impugned order in this writ petition, therefore, deserves to be set aside in the light of the submission made by Mr. Sanyal on the basis of instructions forwarded to the learned advocate for the State respondents.

9. **WPA 1808 of 2025**, therefore, stands **disposed of** by setting aside the impugned order dated December 12, 2024 and by directing the respondents to verify the records and to refund to the petitioner the amount which the petitioner is entitled to in accordance with law, as expeditiously as possible, preferably within a period of six weeks from the date of communication of this order.
10. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities

(Om Narayan Rai, J.)