

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 142 of 2023

Date of order: 22.05.2023

M/s North Eastern Information
Technology Consultancy Services vs The Union of India & ors
Private Limited

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner : Mr R.S. Mishra, Adv. with
Mr J.P. More, Adv.

For the Respondents : Dr N. Mozika, DSG with
Ms A. PRadhan, Adv.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

The writ petitioner does not dispute that there is a regular remedy by way of an appeal against the order-in-original dated September 3, 2020 passed by the Assistant Commissioner, CGST, Shillong, Division I that is sought to be challenged by way of the present petition.

2. However, the writ petitioner refers to paragraph 6.0 of the relevant order to invoke the extraordinary jurisdiction under Article 226 of the Constitution. The relevant paragraph refers to a notice having

been issued by the Department to the assessee which was returned back with an endorsement “Always closed due to lockdown.”

3. It is understandable that the assessee’s office may not have opened during the lockdown. However, it is evident from the same paragraph that the notice for personal hearing was sent through email, but the assessee was not represented on the designated date. At paragraph 9 of the petition, the petitioner assessee has referred to paragraph 6 of the impugned order and the fact that due to the lockdown the notice for hearing could not be served on any representative. However, there is no reference to the email notice and, it is evident that the petitioner may have received the email notice but opted not to attend the personal hearing.

4. There is no doubt that the writ court has the discretion to entertain a petition challenging an order without requiring the petitioner to exhaust the regular remedy. However, such discretion may be exercised in extraordinary circumstances, viz., if the order appears ex facie to have been passed without jurisdiction or the order is made without following the principles of natural justice or the order is so manifestly bad that it shocks the conscience of the court.

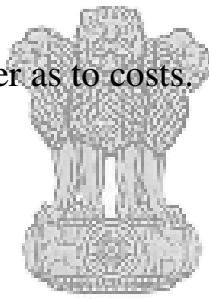
5. In the instant case, there is no doubt that the initial notice went unserved, but since the petitioner appears to have received the email

notice and chose not to attend the personal hearing, the petitioner cannot be heard to complain of the violation of the principles of natural justice.

6. Accordingly, in the tradition of the self-restraint that is exercised by the writ court in not receiving a petition where there is an efficacious alternative remedy available to the petitioner, WP(C) No.142 of 2023 is not entertained. Nothing in this order should prejudice either party. The petitioner is left open to approach the regular forum in accordance with law.

7. There will be no order as to costs.

(W. Diengdoh)
Judge



(Sanjib Banerjee)
Chief Justice

Meghalaya
22.05.2023
"Sylvana PS"