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WPA 11442 of 2021

N.N. Ispat Private Limited
Vs
State Tax Officer, Durgapur Range & Ors.

Mr. Anil Kumar Dugar,
Mr. Rajarshi Chatterjee
... For the Petitioner.

Mr. A. Roy, Ld. GP
Mr. S. Mukherjee,
Mr. Debasish Ghosh
... For the State.

Heard learned Advocates appearing for the parties.

In this writ petition the petitioner has challenged the impugned order of imposition of tax and penalty by the Adjudicating Authority dated 21st January, 2021 as well as the order of the Appellate Authority dated 26th March, 2021, confirming the impugned order of tax and penalty on the ground that the impugned order of penalty was passed in violation of principle of natural justice by not granting any opportunity of hearing and he has been able to establish this allegation by placing the show-cause-notice dated 18th January, 2021 as appears at page 32 of the writ petition wherefrom it appears that the date of hearing of tax and penalty proceedings was fixed on 25th January, 2021 while the Adjudicating Authority passed the impugned order imposing tax and penalty on 21st January, 2021. The petitioner further contends that the petitioner has challenged the impugned order before the Appellate Authority and specifically taking the ground of violation of principle of natural justice by way of denial of personal hearing as appears from the grounds of appeal at page 52 of the writ petition. While the Appellate Authority in its order dismissing the appeal of the petitioner has neither referred nor discussed the issue of violation of principle of natural justice in imposing the impugned tax and penalty and these facts are matters of record.

Mr. Mukherjee, learned Advocate appearing for the respondents is not in a position to deny this fact which appears from the record that the date of hearing was fixed on 25th January, 2021, while the impugned order was passed on 21st January, 2021. He further submits that the bond furnished by the petitioner in case the order of the Adjudicating Authority is set aside and is remanded, and the Bank guarantee provided for release of the goods in question will be renewed from time to time till the final order by the Adjudicating Authority is passed on the remand order.

Considering the facts as discussed above, the impugned order dated 21st January, 2021 and the order of the Appellate Authority dated 26th March, 2021, is set aside solely on the ground of violation of principle of natural justice by not affording opportunity of hearing to the petitioner at the time of passing the impugned order imposing tax and penalty.

This matter is remanded to the Adjudicating Authority, the respondent No.3 to consider afresh by passing a reasoned and speaking order and strictly in accordance with law within three weeks from date and after affording opportunity of hearing to the petitioner and without granting unnecessary adjournment in the matter.

Till such time, the final order is passed by the Adjudicating Authority, the petitioner is directed to see that the bond and Bank guarantee is renewed from time to time.

The demand and penalty will be adjusted with the pre-deposit amount in the appeal in question.

It is recorded that this court has not gone into the merits of the case and the respondent concerned shall decide the case on its own merits and strictly in accordance with law.

WPA 11442 of 2021 is disposed of.

(Md. Nizamuddin, J.)