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WPA 20138 of 2021

Ram Prasad Ganga Prasad & Ors.
Vs
Assistant Commissioner, State Tax, Beadon Street Charge & Ors.

Mr. Siddhartha Sankar Sengupt,
Mr. Samiddha Sankar Sengupta,
Mr. Indranil Biswas
... For the Petitioners.

Mr. A. Roy, Ld. GP
Mr. S. Mukherjee,
Mr. N. Chatterjee
... For the State.

Heard learned Advocates appearing for the parties.

In this writ petition, petitioners have challenged the impugned order of adjudication dated 1st November, 2021 passed by the GST Authority concerned as appears at page 47 to the writ petition. Main ground of challenge of the impugned adjudication order by the petitioners is that though the impugned adjudication order is appealable but the same is without jurisdiction and there is violation of principle of natural justice by not affording them opportunity of hearing. I am not convinced with both the grounds of the petitioners for the reasons that before passing the impugned adjudication order, show-cause-notice dated 31st August, 2021 was issued as appears from Annexure P-2 to the writ petition and it appears that against the show-cause-notice, petitioners have given a detailed reply by their letter dated 1st of October, 2021 as appears at page 40, being Annexure P-3 to the writ petition. No where from the said reply to the show-cause-notice, it appears that petitioners have asked for any personal hearing in the matter. It is a settled law that opportunity of hearing may be afforded either by way of allowing the petitioners to make any written representation for their case or it may be by allowing personal hearing and in this case petitioners were allowed to make written representation/objection and when petitioners have not asked for personal hearing and petitioners have not been able to show any provision of relevant laws mandating the authority to give personal hearing, question of violation of principles of natural justice does not arise in this case. It is relevant to note that Section 75(4) of the GST Act simply says about hearing and not about personal hearing. Now so far as the ground of jurisdiction of the Adjudicating Authority, who has passed the impugned order is concerned, petitioners could not satisfy me from their submission that the Adjudicating Authority, who has passed the impugned order having inherent lack of jurisdiction. Exercising a jurisdiction in an irregular manner by an authority is different from exercising a jurisdiction by the authority having inherent jurisdiction. I do not find that the Authority, who has issued the show-cause-notice and passed the adjudication order, is having inherent lack of jurisdiction under the statute or he is not authorised to exercise the jurisdiction of adjudication in the case of the petitioners. If the petitioners are not satisfied with the impugned adjudication order or reasons according to petitioners in not sufficient or proper, it can be a case of appeal but not a case for invoking Constitutional writ jurisdiction under Article 226 of the Constitution of India. It is also not a case where the petitioners are remediless against the impugned adjudication order; Forum for statutory alternative remedy is already available to the petitioners.

In view of the discussion made above, this writ petition, being WPA 20138 of 2021 is dismissed.

(Md. Nizamuddin, J.)