23.08.2021
p.b.
Sl. No.1.

W.P.A. 1128 of 2021

Chandan Chatterjee
Vs.
Union of India & Ors.

(Via Video Conference)

Mr. R. K. Chowdhury,
Mr. T. K Mitra,
Mr. Protyush Chatterjee.
……for the petitioner.

Mr. Sudipto Mazumdar,
Ms. Suman Sehanabis.
…….for the Union of India.

Heard learned advocates appearing for the parties.

In this writ petition, the petitioner has challenged the impugned notice dated 7th June, 2020 for penalty under Section 122 of the GST Act read with Rule 142 of the CGST Rules, 2017. The main ground of challenge of this impugned notice is that it is without jurisdiction since no adjudication proceeding was initiated at all against the petitioner.

Learned advocate for the petitioner denies the allegation and submits that authorised representative of the petitioner was given notice dated 24th May, 2021 as appears at page 50 of the writ petition. I am not inclined to interfere in this penalty proceeding at this stage when the petitioner has already given an opportunity of hearing as well as to file document in support of his contention and he should have availed this opportunity and should not approach this Court on the presumption that the authority will go against him.

Considering the submission of the parties, this writ petition is disposed of by giving liberty to the petitioner to give reply/objection to the impugned show-cause notice within a week from the date of providing order of the adjudication proceeding to the petitioner in the case of NMT and the respondent concerned shall consider and dispose of the same by passing a reasoned and speaking order and in his order he shall deal with the contentions or issues raised by the petitioner including the point of jurisdiction within four weeks from the date of making such objection and before disposing the said objection, the respondent will give effective opportunity of hearing and the respondent concerned shall not proceed further without disposing the application/objection to be filed by the petitioner against the impugned penalty notice.

With this direction, the writ petition being WPA No.1128 of 2021 is disposed of.

The petitioner shall communicate this order to the non-appearing parties.

(Md. Nizamuddin, J.)