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ORDER SHEET

WPO 1169 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

VARUNA INTEGRATED LOGISTICS PVT LTD
Vs.
STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 8th December, 2021.

(Via Video Conference)

Mr. Raghunath Ghose,
Mr. Aviral Kapur,
Ms. Sonal Alagh,
Ms. Pritha Ghose,
Ms. Sevanti Roy, Advs.
... for the Petitioner
Mr. A. Ray, Ld. GP
Mr. T.M. Siddiqui, Adv.
Mr. S. Mukherjee, Adv.
Mr. D. Ghosh, Adv.
...for the respondents

The Court: Affidavit of service filed in Court be kept with the records.

In this writ petition, petitioner has challenged the impugned adjudication order dated 9th July, 2021 as appears at page 26 of the writ petition under Section 73 of the West Bengal GST Act on the ground of violation of principles of natural justice and on the ground of total non-application of mind by the respondent officer concerned who has passed such adjudication order by recording in his impugned

order that no payment was made within 30 days of the issue of the notice in question while the show cause notice in question which appears at page 50 was issued on 22nd June, 2021 and petitioner was granted 30 days time to make payment of tax along with interest in question and in the same show cause notice time to give reply to the said show cause notice was given till 2nd July, 2021. At the same time in the impugned adjudication order dated 9th July, 2021 which was passed before expiring of 30 days it appears that petitioner was directed to make payment by 10th August, 2021.

From the series of events as appears to me as recorded in the impugned notice and the impugned adjudication order are self-contradictory and in this case there was clear violation of principles of natural justice and the fact that the petitioner could not give reply to the show cause notice before the date of passing of impugned adjudication order, the interest of justice will be served if the impugned order dated 9th July, 2021 under Section 73 of the West Bengal GST Act is set aside and the matter is remanded to the respondent concerned to pass fresh adjudication order on the reply to be filed by the petitioner within two weeks from date against the impugned show cause notice dated 22nd July, 2021. Such adjudication order shall be passed in accordance with law and by giving opportunity of hearing to the petitioner within two weeks after submission of such reply and if no such reply is filed by the petitioner to the show cause notice in question, it will be presumed that the petitioner has nothing to say against the impugned show cause notice.

It is recorded that this Court has not gone into the merits of the impugned adjudication order and it has been set aside solely on the ground of violation of principles of natural justice and officer concerned will consider the case of the petitioner on its own merit and strictly in accordance with law.

With these observations and directions, this writ petition being WPO 1169 of 2021 is disposed of.

(MD. NIZAMUDDIN, J.)

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