

14.09.2022

Sl no. 4

Ct no. 2

P.M.

WPA 16697 OF 2022

Sri Rohit Shroff.

- Vs -

**Assistant Commissioner of CGST & CX,
Haldia Commissionerate & Ors.**

Mr. Somnath Ganguli,
Mr. Sukalpa Seal,
Mr. Bhaskar Sengupta,
Ms. Priyamvada Singh

... for the petitioner

Mr. Vipul Kundalia,
Mr. Bhaskar Prosad Banerjee,
Mr. K.K. Maiti,
Mr. Tapan Bhanja,
Mr. Abhradip Maity

.... For respondents

Ms. Kanika Gupta

... for Union of India

Heard learned counsel appearing for the parties.

Being aggrieved by the action of the respondent CGST authority concerned in taking coercive action for recovery of the demand in question being annexure P/1, P/2 and P/3 to the writ petition.

Petitioner submits that the impugned orders of recovery of demand in question are bad in law and not sustainable since such coercive action has been taken on the basis of purported adjudication order which was never served upon the petitioner and as a result petitioner had no opportunity to even avail the

remedy of appeal before the appellate forum against it.

Mr. Banerjee, learned counsel appearing for the respondent CGST authority could not satisfy this Court by producing any document to establish that the impugned order in original on the basis of which recovery action has been taken was served at any point of time before taking such impugned action of recovery of the demand in question.

Though Mr. Banerjee produces postal documents to show that it was posted but the statute mandates that it has to be actually served on the assessee which Mr. Banerjee failed to establish.

Mr. Banerjee has handed over copies of the adjudication orders dated 19th November, 2014 and 19th February, 2019 to the learned counsel appearing for the assessee petitioner in Court which should be treated as 'served' on this day and petitioner will be entitled to challenge the same before the appropriate appellate forum, if so aggrieved subject to compliance of statutory formalities.

Considering facts and circumstances of the case that the impugned recovery orders being annexure P/1, P/2 and P/3 to the writ petition are quashed.

Accordingly this writ petition being WPA 16697 of 2022 stands disposed of .

Since this writ petition has been disposed of without calling for affidavits from the respondent, allegations contained therein shall be deemed to have been denied by them.

(Md. Nizamuddin, J.)