01.12.2022.
p.b.
Sl. No.18.

WPA 26092 of 2022

M/s. Joyous Blocks & Panels
PVT. Ltd. & Anr.
Vs.
Assistant Commissioner, Commercial
Taxes, Ballygunge Charge & Anr.

Mr. Vinay Kr. Shraff,
Ms. Priya Sarah Paul,
Mr. Priyanka Sharma.
........for the petitioners.
Mr. K. K. Maiti,
Mr. Tapan Bhanja.
.........for the CGST authority.
Mr. A. Ray,
Mr. D. Ghosh,
Mr. N. Chatterjee,
Mr. V. Kothari.
.........for the State.

Heard learned advocates appearing for the parties.

Petitioner has filed this writ petition challenging the impugned show-cause notices dated 26th September, 2022 pertaining to the period July 2017 and June, 2022 without giving reply to the aforesaid show-cause notices. Petitioner challenges the legality of the aforesaid notices, on the ground that the authority while issuing the impugned notice has already made up their mind and that on the similar issue earlier central authority has already dropped the proceeding.

I am of the view that this writ petition is premature since the petitioner has not replied to the impugned show-cause notices and it is its mere apprehension that if it files the objection that will not be considered by the authority who issued the impugned show-cause notices. It is a well settled principle of law that against the show-cause notices, writ court should be very reluctant to interfere unless the authority who issued the show-cause notices having inherent lack of jurisdiction or the notice is patently contrary to law. Petitioner will have ample opportunity to raise all the points in its objection to the impugned show-cause notices and will have also opportunity of personal hearing before the authority but still petitioner does not want to avail this opportunity and seeks to invoke constitutional writ jurisdiction of this Court. By a decision of the three Judges' Bench of the Hon'ble Supreme Court in the case of Indo Asahi Glass Company Ltd. & Anr. Vs. Income Tax Officer & Ors. reported in (2002) 254 ITR 210 (SC) it has been held that the appropriate recourse against a show cause notice is to file a reply to the same and to take whatever defence is open to the petitioner.

In view of the discussions made above, I am not inclined to entertain this writ petition by holding that the same as premature and on the ground of alternative remedy and accordingly, this writ petition being WPA 26092 of 2022 is dismissed.

(Md. Nizamuddin, J.)