

18-02-2022
Item No.70
Subrata

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.26663 of 2016
Eastern Associates Contracts & Anr.
-vs-
Union of India & Ors.

Mr. Agnibesh Sengupta
Mr. Akash Agarwal ...for the petitioners

Mr. Somnath Ganguli
Ms. Priyamvada Singh
Ms. Sukalpa Seal ...for respondents no.2-4

Short written notes of arguments filed in court on behalf of the petitioners be taken on record.

In this writ petition, petitioners have challenged the impugned show-cause-cum-demand notice dated October 14, 2016 (Annexure P17, p.88) issued by the Commissioner, Central Excise & Service Tax, Audit-II Commissionerate, Kolkata, the fourth respondent herein, on the grounds that the same is without jurisdiction and have also raised several grounds in this writ petition challenging the aforesaid impugned show cause notice.

Parties have filed their respective affidavits and short written notes of argument in the matter.

From record it appears that there is an interim order in the matter passed on November 29, 2016 staying the impugned show-cause notice, initially for four weeks and was extended from time to time.

Considering the submission of the parties and in view of the fact that this is a revenue matter which has been hanging for more than five years and no proceeding

could be progressed after the issuance of impugned show-cause notice which the petitioners should have responded by filing the reply/representation/objection to the impugned show-cause notice, I am of the view that issuance of notice by an authority cannot be treated as a final decision or conclusion of the matter by that authority and cannot be automatic presumption that at the final decision on the impugned show-cause notice, authority will go against the petitioners. In addition to that, I am also of the view that this writ petition is premature, though it has been entertained and direction for affidavits and interim order was passed.

Considering the facts and circumstances of this case and respective submission of the parties, this writ petition being **WPA No.26663 of 2016 is disposed of** by directing the petitioners to file objection/representation to the impugned show-cause notice dated October 14, 2016 within four weeks from date. If such objection/representation to the aforesaid show-cause notice dated October 14, 2016 is filed by the petitioners within the time stipulated hereinabove, respondent/authority concerned shall consider and dispose of the same in accordance with law and by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioners or their authorised representative.

At the time of hearing, petitioners shall be entitled to take all the points raised by them in this writ petition as well as in the short written notes of argument and the respondent/authority concerned shall deal with the same while taking a final decision on the aforesaid impugned show-cause notice within four weeks from the date of making such representation/objection and shall communicate his decision to the petitioners within two

weeks thereafter.

Since in this matter already an interim order was passed, which the petitioners were enjoying as indicated above, that will be continued till one week after the order of disposal of the objection/representation against the impugned show-cause notice. This interim order shall be subject to the final outcome of the decision to be taken by the respondent/authority concerned on the aforesaid objection to the impugned show-cause notice and all legal consequences will follow.

[Md. Nizamuddin, J]