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WPA 647 of 2023

Sk. Ayet Ali
Vs
Union of India & Ors.

Mr. N.K. Chowdhury,
Mr. Arijit Chakrabarti,
Mr. Nilotpal Chowdhury,
Mr. Deepak Sharma
... For the Petitioner.
Mr. Uday Sankar Bhattacharjee,
Mr. Tapan Bhanja
... For the CGST Authority.
Mr. Sunil Singhanian,
Mr. Vikas Bansal Agarwal
... For the Respondent No.1.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order in original dated 12th October, 2022, being Annexure P-5 to the writ petition passed by the respondents/Central Excise Authority concerned, on the ground that the same has been passed ex parte without serving any show-cause-notice upon him and without giving opportunity of hearing.

Mr. Bhattacharjee, learned Advocate appearing for the respondents pursuant to the earlier order of this court dated 11th January, 2023 has produced the relevant record and submits that the show-cause-notice in this case was issued on 20th April, 2021 and was received by one person named Sankar Pada Sinha claiming to be the Accountant of the petitioner on 22nd April, 2021.

Mr. Chowdhury, learned Advocate appearing for the petitioner denies and disputes about the identity of such person who has received such show-cause-notice and submits that petitioner does not know such person named Sankar Pada Sinha and he does not have any Accountant in his office. Since the order has been passed ex parte and petitioner could not avail the opportunity of hearing and to give reply to the show-cause-notice claimed to be issued by the respondents, in the interest of justice the aforesaid impugned order dated 12th October, 2022 is set aside and the matter is remanded back to the respondent Authority concerned to pass a fresh speaking order in accordance with law after giving an opportunity of hearing to the petitioner or his authorised representative, within a period of four weeks from the date of such reply if filed within two weeks. If petitioner fails to file any reply to the show-cause-notice or does not attend the hearing after intimation of date of hearing, the respondent Authority concerned shall free to pass ex parte order.

In addition, the following order/ directions this court intends to pass:

- i) No original or fresh show-cause-notice is required to be served in this case on the petitioner ;

- ii) Copy of the show-cause-notice dated 20th April, 2021 shall be served in court upon Mr. Chowdhury, learned Advocate appearing for the petitioner and that shall be treated a service upon the petitioner.
- iii) Petitioner shall indicate his present address for the purpose of correspondence by the respondents in reply to the show-cause-notice.

With this observation and direction this writ petition being WPA 647 of 2023 is disposed of.

(Md. Nizamuddin, J.)