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WPA 1172 of 2023

Kundan Care Products Ltd.

Vs

Senior Joint Commissioner of State Tax, Large
Taxpayers' Unit, Corporate Division & Ors.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das

... For the Petitioner.

Mr. A. Ray, Ld. GP.,
Mr. T. M. Siddiqui,
Mr. D. Ghosh,
Mr. N. Chatterjee,
Mr. V. Kothari

... For the State.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 15th July, 2019 and subsequent attachment notices dated 3rd January, 2023 and 4th January, 2023 on the ground that the impugned order dated 15th July, 2019 is in patent violation of principle of natural justice by not affording any opportunity of hearing to the petitioner before passing the aforesaid impugned order dated 15th July, 2019 and at no stage any show-cause-notice was issued to the petitioner.

Mr. Siddiqui, learned Additional Government Pleader is not in a position to contradict the aforesaid allegations of the petitioner with regard to non-issuance of any show-cause-notice before passing the impugned order/demand though he submits that the demand raised pertains to interest and as per the

provisions of Section 75 of the WBGST Act for determining and realizing the interest, no show-cause-notice is required to be served.

Mr. Mazumder, learned Advocate representing the petitioner submits that even if no show-cause-notice is required to be served but as per the amended Section 50 of the WBGST Act which came into effect retrospectively by the amendment dated 19th September, 2020, respondents are not entitled to claim interest with retrospective effect on gross liability and this aspect has to be considered and this amended provision was ignored by the Adjudicating Authority concerned in raising the demand relating to interest in question. Mr. Mazumder further submits that after the amendment of Section 50 of the Act, petitioner made several representations from time to time relating to raising of the demand in question but the same were never considered.

Considering the facts and circumstances of the case and submission of the parties, this writ petition being WPA 1172 of 2023 is disposed of by setting aside the impugned order/demand dated 15th July, 2019 and the subsequent attachment orders dated 3rd January, 2023 and 4th January, 2023 and the matter is remanded back to the Adjudicating Authority concerned to re-consider the case of the petitioner

after taking into consideration the amended provision of Section 50 of the WBGST Act and pass a fresh order after giving an opportunity of hearing to the petitioner or its authorised representative, within a period of eight weeks from the date of communication of this order.

(Md. Nizamuddin, J.)