

09.06.2023
Item No.15
gd/ssd

MAT/982/2023
IA NO: CAN/1/2023
THE STATESMAN LIMITED
VS
JOINT COMMISSIONER CENTRAL
GOODS AND SERVICE TAX

Mr. Vinay Kr. Shraff,
Ms. Priya Sarah Paul
..for the Appellant.

Mr. K.K. Maiti,
Mr. Tapan Bhanja
..for the Respondent.

1. This intra court appeal by the writ petitioner is directed against the order passed by the learned Single Bench dated 18th May, 2023 in WPA 8791 of 2023 by which the challenge to the show cause notice dated 27th April, 2021 was rejected.

2. It is seen that the appellant has raised the question of jurisdiction of the authority to issue the show cause notice beyond the extended period of limitation. This being a jurisdictional issue, it will be well open to the Writ Court to consider the same and take a decision.

3. The Hon'ble Supreme Court has held that when there is a jurisdictional error, a writ is maintainable and the Writ Court will refuse to entertain a writ petition when the assessee seeks to challenge an order on disputed questions of fact. Equally, a writ

petition is maintainable when a show cause notice has been issued by an incompetent authority or when there is violation of principles of natural justice. Therefore, it is required to be seen in the writ proceedings as to whether the show cause notice was issued within the period of limitation for which disputed question of fact need not be gone into.

4. Therefore, we are of the view that the writ petition should be heard and decided on merits on the question of the jurisdiction of the officer to issue the show cause notice.

5. Therefore, we are inclined to restore the writ petition to the file of the learned Writ Court to be heard and decided on merits after affidavit is filed by the respondent. In the result, the appeal is allowed.

6. The order passed in the writ petition is set aside. The writ petition is restored to the file of the learned Single Bench.

7. The respondent is directed to file affidavit-in-opposition within four weeks from date and reply, if any, be filed within two weeks thereafter.

8. Registry is directed to list the matter before the appropriate Bench after six weeks.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

