

25.09.2023

Sl no. 10

Ct no. 2

P.M.

WPA 22295 OF 2023

**Diamond Beverages Private Limited & Anr.
- Vs -
The Assistant Commissioner of CGST CX,
Taratala Division II, Kolkata South
Commissionerate & Ors.**

Mr. Ankit Kanodia,
Ms. Megha Agarwal,
Mr. Jitesh Sah

... for the petitioners

Mr. Kaushik Dey,
Ms. Ekta Sinha

.... For the respondent

Mr. Vipul Kundalia,
Mr. Soumen Bhattacharjee

... for Union of India

Heard learned advocates appearing for the parties.

By this writ petition, petitioners have challenged the impugned show-cause notice dated 16th August, 2023, under Section 73(1) of the CGST Act, 2017 without making any response/reply to the aforesaid show-cause notice and petitioners have filed this writ petition and submit that the impugned show-cause notice is not sustainable in law by relying on the view taken by the Division Bench of this Court in the judgement dated 2nd August, 2023 in the case of Suncraft Energy Private Limited & Anr.

- Vs - Assistant Commissioner, State Tax,

Ballygunge Charge & Ors. reported in 2023 SCC OnLine Cal 2226.

Considering the facts and circumstances of this case and submission of the parties this writ petition being WPA 22295 of 2023 is disposed of by directing the petitioners to file reply to the aforesaid impugned show-cause notice within seven days from date and the respondent adjudicating authority concerned shall consider and dispose of the aforesaid reply/objection to the impugned show-cause notice in accordance with law and by passing a reasoned and speaking order and after taking into consideration the aforesaid judgement of the Division Bench of this Court in the case of Suncraft Energy Private Limited & Anr. (supra) and by giving an opportunity of personal hearing to the petitioners or its authorised representatives, within a period of four weeks from the date of receipt of such reply/objection and till final order is passed on the aforesaid objection to be filed by the petitioners there shall be no further proceeding in the matter on the basis of the impugned show-cause notice and any further proceeding will depend upon the final outcome of the order to be passed on the impugned show-cause notice.

In case of failure by the petitioners to file objection with the time stipulated herein this order will not have any force.

(Md. Nizamuddin, J.)