

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

11 13.09.2023
Ct. No. 2
D.Ghosh

WPA/2054/2023

**SUN PASTING INDUSTRIES AND ANR.
VS
THE STATE OF WEST BENGAL AND ORS.**

Mr. Himangshu Kumar Ray,
Mr. Abhilash Mittal,
..for the petitioner

Mr. Bikramaditya Ghosh,
Mr. Subin Kr. Saha,
Mr. Pretom Das,
..for State

The Affidavit of Service filed today be kept with the records.

The instant writ petition is directed against an *ex parte* appellate order dated 17th August, 2023 passed by Senior Joint Commissioner of Revenue Appellate Authority, Jalpaiguri Circle.

Briefly, the petitioner is carrying on a business under trade name M/s. Sun Plasting Industries, having its principal place of business at Jalpaiguri. By an order dated 3rd March, 2023, the Assistant Commissioner of Revenue had initiated proceedings under Section 73 of CGST Act and found the petitioner liable to pay a sum in excess of Rs.20,67,152/- on ground of outstanding GST dues.

Being aggrieved by the order passed, the petitioner has preferred an appeal before the Joint

Commissioner of Revenue (Commercial Taxes), Jalpaiguri Circle.

It is admitted by both the parties that no notice of hearing of the appeal was ever served on the petitioner.

In this background, the order dated 17th August, 2023 was passed *ex parte* without hearing the petitioner.

It is submitted by the respondent authorities that a notice ought to have been given to the petitioner before the appeal was finally adjudicated. In view of the fact that no notice or opportunity was given to the petitioner and only the submissions of the appellant were addressed, on the ground of violation of principles of natural justice, the impugned order dated 17th August, 2023 is set aside.

The matter is remand back to the Appropriate Authority being Senior Joint Commissioner of Revenue Appellate Authority, Jalpaiguri Circle to hear the appeal after giving and affording an opportunity to the petitioner hearing.

It is made clear that there has been no adjudication on merits of the case and all questions are left open to be decided. The Appellate Authority shall not be bound by any observation on the merits of the case.

In view of the aforesaid, WPA/2054/2023 stands allowed.

It is expected that the Appellate Authority shall consider and dispose of the appeal within a period of eight weeks from date of notice of this order.

The writ petitioner is at liberty to file an appropriate application in accordance with law before the Appellate Authority.

(Ravi Krishan Kapur, J)