05.12.2023
SL.11, Ct.2
AJ.

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Side

W.P.A. 2489 of 2023

Nav Bharat Tea Processing Private Limited & Anr.
-Vs-
The Deputy Commissioner of State Tax Bureau of Investigation, North Bengal (Head Quarters) & Ors.

Mr. J. Khan,
Mr. Prosenjit Das,
Mr. Abhilash Mittal.
......for the petitioners.

Mr. Subir Kumar Saha, Ld. A.G.P.,
Mr. Dilip Kumar Agarwal.
......for the State.

Mr. Ratan Banik,
Mr. Biswaraj Agarwal,
Mr. Saptarshi Banik.
......for the respondent nos.4 & 5.

The Deputy Commissioner of State Tax Bureau of Investigation, North Bengal (Head Quarters), the respondent no.1 herein by the order impugned bearing reference no. ZD1906230130550 dated June 12, 2023 under Section 74(9) of the Central Goods and Services Tax Act, 2017(hereinafter referred to as 'the said Act of 2017' in short) has determined the amount of tax, interest and penalty due from the petitioners.

The petitioners are challenging the said order mainly on the ground that the order impugned was passed without giving the petitioners an opportunity of hearing as required under Section 75(4) of the said Act of 2017.

Mr. Agarwal, learned Counsel for the State respondents submits that such opportunity was offered to the petitioners but they failed to avail it.

Learned counsel for the petitioners submits that the first date fixed for personal hearing was adjourned and the second date fixed for the said purpose was communicated to the petitioners by way of e-mail but unfortunately, they missed it.

Be that as it may, Section 75(4) of the said Act mandates that an opportunity of hearing shall be given where a request is received in writing, to the person chargeable with tax or penalty or where any adverse decision is contemplated against such person. The petitioners, therefore, are entitled to an opportunity of such hearing, accordingly the order impugned is set aside.

The respondent no.1 is directed to decide the show cause notice bearing reference No.- ZD1902230202024 dated February 24, 2023 and the reply thereto afresh after giving the petitioners an opportunity of hearing.

WPA 2489 of 2023 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)