

01.04.2024

Sl no. 7

Ct no. 2

P.M.

WPA 3930 OF 2024

M.M.T.C. Ltd.

- Vs -

Commissioner of CGST & CX Kolkata (North) & Ors.

Mr. Atish Dipankar Ray,

Ms. Sanjukta Ray

... for the petitioner

Mr. Vipul Kundalia,

Ms. Ekta Sinha

... for CGST authorities.

Ms. Smita Das De

... for Union of India

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned adjudication order dated 9th November, 2023 passed under the relevant provisions of CGST Act and the impugned show-cause notice dated 31st August, 2023.

It appears from record annexed to the writ petition that the impugned order has been passed on the basis of the aforesaid show-cause notice. It also appears from record that the petitioner participated in the impugned adjudication proceeding subsequent to the impugned show cause notice by availing opportunity of personal hearing. On perusal of the impugned adjudication order I find that the adjudicating authority in its order has recorded in

detail both facts, legal provisions and judgments cited by the petitioner.

Furthermore, the impugned order not only contains the facts in detail, submission of the petitioner, it also contains all the legal provisions and legal issues involved and the citations. The impugned adjudication order which is an appealable order under the statute was passed after petitioner submitted to the jurisdiction of the adjudication authority by participating in the impugned order and after it gone against it, it turned around and intends to challenge the show cause notice itself and the impugned appealable adjudication order.

On perusal of the impugned adjudication order I find that the same has been passed neither in violation of principle of natural justice nor the petitioner was denied opportunity of personal hearing nor the impugned order has been passed by the authority having inherent lack of jurisdiction, nor the impugned order is a non-speaking order, nor any constitutional validity of any provision of law is involved in this writ petition which are the criteria for invoking the constitutional writ jurisdiction of this

Court under Article 226 of the Constitution of India in spite of availability of statutory alternative remedy.

Considering the facts and circumstances of the case as appears from record this Writ Court cannot act as an appellate authority over the impugned adjudication order and more particularly in the facts and circumstances of this case recorded herein above and on the ground of availability of alternative remedy by way of statutory appeal against the impugned adjudication order and proceeding in which petitioner has participated I am not inclined to entertain this writ petition being WPA 3930 of 2024 and accordingly the same is dismissed.

(Md. Nizamuddin, J.)