9th September, 2024
(AK)
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W.P.A 17913 of 2024

Del Monte Foods Private Limited
Vs.
The State of West Bengal and others

Mr. Pujon Chatterjee
Mr. S. Bhattacharyya
...for the petitioner.

Mr. Anirban Ray
Md. T.M. Siddiqui
Mr. Tanoy Chakraborty
Mr. S. Shaw
Mr. N. Chatterjee
...for the State.

1. Challenging, *inter alia*, an order dated 16th April, 2024 passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as 'the said Act'), for the tax period April 2018 to March 2019, the instant writ petition has been filed.
2. Mr. Chatterjee, learned Advocate appearing on behalf of the petitioner, would submit that although the provisions of the said Act contemplate offering opportunity of personal hearing where an adverse order is contemplated, in the present case despite the petitioner opting for personal hearing no such hearing had been granted.
3. Mr. Ray, learned Government Pleader appearing on behalf of the State-respondents, would acknowledge the fact that the petitioner was not offered personal hearing.

4. Having heard the learned Advocates appearing on behalf of the respective parties and taking note of the fact that the order dated 16th April, 2024 was passed by the proper officer without affording an opportunity of hearing to the petitioner, let the same be set aside on the ground of violation of Section 75(4) of the said Act, with a further direction upon the proper officer to dispose of the show cause issued in Form DRC 01 dated 8th November, 2023 upon affording an opportunity of personal hearing to the petitioner on the basis of the response already filed by the petitioner.
5. The petitioner shall also be at liberty to file additional documents, if so advised.
6. As a sequel thereto the order dated 16th April, 2024 and the demand raised in Form DRC 07 dated 16th April, 2024 is set aside.
7. With the aforesaid directions and observations, writ petition stands disposed of.
8. There shall be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the necessary formalities.

(Raja Basu Chowdhury, J.)