08.01.2024
PB
Sl. No.3.

WPA 27827 of 2023

Bishnupada Ghosh
Vs
Assistant Commissioner of CTST
And Central Excise, Siliguri Audit
Circle – V & Ors.

Mr. Sandip Choraria,
Mr. Rishav Manna.
... For the Petitioner.
Mr. K. K. Maiti,
Mr. Tapan Bhanja.
.......for the CGST authority.
Mr. Smarajit Roychowdhury,
Mr. Soumen Bhattacharya.
........for the UOI.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned show-cause notice under Section 16(4) of the CGST Act dated 5th June, 2023 and the constitutional validity of the aforesaid provision.

Mr. Maiti, learned advocate for the CGST authority in opposing the writ petition submits that the writ petition is not maintainable in view of the fact that petitioner has approached this Court at the stage of show-cause notice without giving any reply and furthermore that the constitutional validity of the aforesaid section has already been upheld by the judgment of the Division Bench of this Court dated 13th December, 2023 in the case of BBA Infrastructure Limited Vs. Senior Joint Commissioner of State Tax & Ors. reported in 2023 SCC OnLine Cal 4976.

Considering the facts recorded hereinabove and taking into consideration the aforesaid decision of the Division Bench in the case of BBA Infrastructure Limited (supra), I am not inclined to grant any relief to the petitioner in this writ petition except extending the time to file reply to the impugned show-cause notice by two weeks from date and if such reply is filed within the time stipulated herein, the same shall be strictly considered in accordance with law.

It is clarified that this Court has not gone in to the validity and legality of the notice and the authority concerned shall be free to decide the same in accordance with law.

Accordingly, this writ petition being WPA 27827 of 2023 is disposed of.

(Md. Nizamuddin, J.)