Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

40
05.09.2024

kc Ct. no.2

WPA 1845 OF 2024

Tana Hali Construction & Company

Vs.

Sr. Joint Commissioner, State Tax,
Siliguri Circle & Ors.

Mr. Hillol Saha Poddar
Ms. Mousumi Das
....For the petitioner

Mr. Pretom Das
Mr. Pradip Sarkar
....for the State

Referring to **annexure P-6** at **pages 29 to 31** to the writ petition, Mr. Hillol Saha Poddar, learned counsel appearing for the petitioner submits that the showcause notice was issued on **October 5, 2021** but without complying the mandatory statutory requirement as the date of personal hearing, time of personal hearing and the venue for personal hearing have not been mentioned.

Mr. Pretom Das, learned State counsel, appears for the respondents.

Learned counsel for the petitioner refers to a judgment of the Hon'ble Division Bench, in support of his above contention, **In the matter of: Gautam**

Bhowmick –vs- The State of West Bengal reported at (2024) 158 Taxmann.com 399 (Calcutta).

The petitioner submits that after the said show-cause notice was issued, an order was also passed thereunder dated **April 19, 2023**. The petitioner has challenged the said order by way of appeal no. **AD190324020361J** before the jurisdictional Additional Commissioner, Commercial Taxes. The said appeal was dismissed by an order dated June 25, 2024.

After considering the submissions made on behalf of the parties and upon a close scrutiny of the show-cause notice dated **October 5, 2021, annexure P-6** at **pages-29 to 31** to the writ petition, this Court is of the view that the said show-cause notice cannot sustain in law as the mandatory statutory requirements were not complied with under **Section 75 (4) of the G.S.T. Act, 2017**.

Since the issue involved is the elementary violation of the principles of natural justice, which is provided under the relevant provision of the statute, this writ Court has jurisdiction to take cognizance of the same and for the ends of justice to pass necessary orders in exercise of its power under high prerogative writ jurisdiction under Article 226 of the Constitution of India. For the ends of justice, this Court is also of the view that the issue raised by the Revenue needs to be addressed without wasting any further time by depending on technical formalities.

For those reasons and for the ends of justice, the show-cause notice dated **October 5, 2021, annexure P-6** at **pages 29 to 31** to the writ petition stands **set aside** and **quashed**. Accordingly, the order passed by the Revenue dated **April 19, 2023** also stands **set aside** and **quashed**.

The jurisdictional authority upon issuing a fresh show-cause notice strictly in accordance with law shall be at liberty to proceed further against the concerned assessee.

It is made clear that this Court has not gone into the merits of the case in any manner whatsoever.

With the above directions and observations, this writ petition, **WPA 1845 of 2024** stands **allowed** to the extent indicated above, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Aniruddha Roy, J.)