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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 436 of 2025

Julie Jaiswal
Versus
Union of India & Ors.

Ms. Sweta Mukherjee
... For the petitioner.

Mr. Shiv Shankar Banerjee
Ms. Aishwarya Rajyashree
... For the respondents/CGST authorities

1. Challenging the order in original dated 19th December, 2024 passed under Section 74 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act"), the instant writ petition has been filed.

2. Ms. Mukherjee, learned advocate representing the petitioner would submit that the petitioner was not given appropriate opportunity of personal hearing. She would next submit that the show cause notice proceeds on the premise that the petitioner was required to pay tax on royalty. According to her, since, the above issue as to whether royalty is taxable was pending before the Hon'ble Supreme Court, the petitioner had not paid the tax on royalty. In any event, the petitioner was entitled to set off the same against reverse change mechanism, as such, the extended period of Section 74 of the said Act could not have been invoked.

3. Heard the learned advocates appearing for the respective parties. I find that a show cause notice dated 3rd August, 2024 has been served on the petitioner. Though there appears to be some disputes as to whether the petitioner was served with the first and second notice of personal hearing, however, the fact remains that the notice dated 21st November, 2024 was also served on the petitioner. Though the contents of such notice had been challenged by the petitioner by the petitioner's letter dated 27th November, 2024, however, I find from the order impugned that opportunity of personal hearing was afforded to the petitioner on three several dates.

4. Since, there are disputes as to whether the petitioner had at all been given previous two hearing notices, I am of the view it shall be prudent for this Court not to enter into such controversy and decide on disputed questions of fact, especially when the petitioner has an alternative remedy in the form of an appeal and since, Mr. Banerjee, learned advocate representing the CGST authorities would object to this Court entertaining the writ petition on the ground of alternative remedy.

5. Having regard thereto, I am of the view that this Court may not entertain the writ petition, at the same time the petitioner cannot be rendered remediless.

6. Having regard thereto, I am of the view that in the event, the petitioner files an appeal before the appellate authority within a period of four weeks from date, upon compliance with the other formalities, the appellate

authority shall hear out and dispose of the appeal on merits as expeditiously as possible preferably within 12 weeks from the date of filing the appeal, and shall also decide all points raised by the petitioner.

7. With the above observations and directions, the writ petition is disposed of.

8. Since, the writ petition is disposed of, the application being CAN 1 of 2025 having become infructuous, the same is accordingly dismissed.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)