07.07.2025
Item No.
A 10
Saswata

WPA 394 of 2025
IFGL Refractories Limited
versus
Assistant Commissioner of State Tax, ND Sarani & Lyons Range Charge & Ors.

Mr. Rajeev Agarwal
Mr. Aysuh Jain
...For the petitioner
Mr. Anirban Ray, Ld. GP
Mr. Md. T.M.Siddqui, Ld. GP
Mr. Nilotpal Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...For the State

1. Supplementary affidavit filed in Court today is retained with the record.

2. Mr. Agarwal, learned advocate appearing for the petitioner by drawing attention of this Court to the demand raised by the respondents in Form GST DRC – 07 dated 29th April 2024 submits that the said demand has been issued *de hors* the show cause. According to him, the show-cause cum demand in Form GST DRC – 01 dated 23rd August 2023 would show the said demand was for Rs.58,805.54/-, however, the final demand in DRC-07 was Rs.588050/- which is far beyond the show cause in GST DRC – 07.

3. Mr. Agarwal further submits that the order under Section 73(9) of the WBGST /CGST Act, 2017 (hereinafter referred to as the "said Act") dated 29th April 2024 has been passed contrary to the Statute, inasmuch as no opportunity of personal hearing has been provided to the petitioner.

4. Mr. Chakraborty, learned advocate appearing for the State submits that since the petitioner did not respond to the show cause, no opportunity was offered.

5. Having heard the learned advocates appearing for the respective parties and without entering into the

question as to whether the petitioner had at all any notice of the order having regard to the order being uploaded on the common portal in the "*additional notices and orders*" section, I am of the view that the writ petition can be disposed of without entering into any disputed question, on an entirely different ground. I find that the provisions of Section 75(4) of the said Act makes it obligatory for the proper officer before passing any order or where any adverse decision is contemplated to afford an opportunity of hearing to the registered tax payer irrespective of the fact whether any request is received from the registered tax payer. Noting that in this case the show cause notice issued in Form GST DRC – 01 dated 18th December 2024 for the tax period April 2018 to March 2019 did not provide for any time, date or venue of personal hearing and the order impugned also recording that the tax payer had not prayed for any personal hearing and there is nothing on record to demonstrate that the petitioner had been afforded any opportunity of hearing and also noting the stand taken by the petitioner in ground no. II of the writ petition and paragraph 6 of the supplementary affidavit that the petitioner was not afforded with personal hearing, I am of the view that without going into any other issue, it would be prudent to remand the matter back to the proper officer for fresh adjudication on merits.

6. In view thereof, while setting aside the order dated 29th April 2024 for the tax period Ap4ril 2018 to March 2019 passed under Section 73 of the said Act, along with consequential demand raised in Form GST DRC – 07 of even date, I direct the proper officer to hear out and dispose

of the proceeding afresh in accordance with law as expeditiously as possible preferably within a period of 6 weeks from the date of communication of this order.

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

8. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)