24.04.2025
sayandeep
Sl. No. 10
Ct. No. 05

WPA 1551 of 2025

Pradip Barman
Vs.
The Assistant Commissioner, Central Goods and Service Tax, Haldia-II Division & ors.

Mr. Indranil Banerjee
Mr. Subrata Mukherjee
.... for the petitioner
Mr. Vipul Kundalia, Sr. Advocate
Ms. Sretapa Sinha
Mr. D. Chaudhury
... for the respondents
Mr. Bishwambher Jha
Mr. Atanu Pal
Mr. H.K. Jah
Ms. Munmun Mishra
....for the UOI

1. Challenging the order in original dated 26th March, 2024 passed under the provisions of Finance Act, 1994 (hereinafter referred to as the said Act) in respect of the tax period of 2015-2016, the instant writ petition has been filed.

2. Records would reveal that a show-cause cum demand notice was issued on the petitioner on 20th October, 2020 under the provisions of Section 73(1) of the said Act by invoking the extended period of limitation as provided for in the proviso to Section 73 (1) of the said Act. The petitioner appears to have responded to the said show-cause by a communication in writing dated 14th July, 2023. Apart from responding to the show-cause on merit, the petitioner had also questioned the authority of the respondents to issue the show-cause notice

beyond the ordinary period of limitation by invoking the extended period as according to the petitioner the show-cause did not spell out the reasons for invocation of extended period.

3. Mr. Banerjee, learned advocate appearing for the petitioner by placing before this Court the order impugned would submit that the order is an unreasoned order. On the basis of the observations made in paragraphs 5 and 6, the concerned respondent had adjudicated upon the show-cause. According to him, the order is not only cryptic but the same does not take into consideration the points raised by the petitioner in response to the show-cause especially the issue of the same being issued beyond the ordinary period.

4. Mr. Kundalia, learned senior advocate appears on behalf of the respondents. Though he questions the delay on the part of the petitioner in approaching this Court and submits that ordinarily having regard to the alternative remedy available, this Court ought not to entertain the petition, he however, could not identify any observations or any finding returned by the concerned authority wherein the point of invoking the extended period as raised by the petitioner has been dealt with.

5. I may note that ordinarily when a show-cause notice is issued and a response is given thereto, the authority concerned deciding the show-cause is duty

bound to deal with the points raised in response to the show-cause unless he finds the same to be irrelevant, in which case appropriate finding should be returned therefor. Admittedly, in this case, a jurisdictional issue as regards the competence of the concerned authority to issue the show-cause notice beyond the ordinary period of limitation had been raised. Admittedly, in this case as it transpires from the show-cause notice itself that the extended period of limitation has been invoked. Having regard thereto, the concerned authority was duty bound to deal with the same.

6. Without going into the issue at this stage as to whether the show-cause itself discloses grounds to invoke the extended period, in my view, the respondents should be afforded with an opportunity to consider the above issue at the first instance. This apart, the order appears to be a cryptic one. No reasons have been provided as to why he had decided to hold that the demand made against the petitioner is just and tenable especially when the petitioner has a right to know the reason why the demand is being levied.

7. Having regard thereto, I am of the view that the above order cannot be sustained and the same is accordingly set aside and the matter is remanded back to the adjudicating authority for adjudication on merits upon giving an opportunity of hearing to

the petitioner and by passing a reasoned order. Considering the fact that the tax period pertains to the financial year 2015-2016, I am of the view that the entire proceedings must be complete within a period of eight weeks from date of communication of this order.

8. With the above observations and directions, WPA 1551 of 2025 is disposed of.

(Raja Basu Chowdhury, J.)