05.05.2025
Item No
A 2
Saswata

WPA 1841 of 2025

UBS Exports International Pvt. Ltd. & Anr.
versus
The State of West Bengal & Ors.

Mr. Pranit Bag
Ms. Rita Mukherjee
Mr. Ghanshyam Jha
Mr. Riddhiman MUkherjee
Mr. Roswan Kr. Jha
Ms. Amani Kayan

…For the petitioners

Mr. Md. T.M.Siddqui, Ld. AGP
Mr. T.Chakraborty
Ms. S. Shaw
Mr. D.Sahu
Mr. S. Sanyal

…For the State

1. Affidavit of service filed in Court today is retained with the record.

2. Challenging a show cause notice dated 2nd July 2024 and the impugned order dated 21st November 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.

3. Admittedly, in this case immediately after the show cause notice was issued, the petitioners did not approach this Court to challenge the same. It is only after the final order dated 21st November 2024 under Section 74(9) of the said Act was passed, the petitioners have approached this Court by filing the instant writ petition.

4. Mr. Bag, learned advocate appearing for the petitioners would submit that the show-cause notice is flawed as the same seeks to combine multiple tax period. In support of his aforesaid contention he has placed reliance on the following judgments:-

- ***Titan Company Ltd. v. Joint Commissioner of GST & Central Excise*** delivered by the Hon'ble High Court of Madras reported in ***[2024] 159 taxmann.com 162 (Madras)***

- ***M/s Veremax Techonologie Services Limited v. The Assistant Commissioner of Central Tax*** delivered by the Hon'ble High Court of Karnataka ***(Neutral citation : 2024:KHC 36293)***

- ***M/s Bangalore Golf Club versus Assistant Commissioner of Commercial Taxes (Enforcement)*** delivered by the Hon'ble High Court of Karnataka

5. By relying on the aforesaid judgments, it is submitted that this Court is competent to entertain such writ petition. In the facts, since the show-cause is not sustainable, the final order should be set aside.

6. Mr. Siddiqui, learned Additional Government Pleader and Senior advocate appears on behalf of the State. He submits that the petitioners have an alternative remedy and as such on such ground the writ petition should not be entertained. All points that the petitioners seek to raise can be raised before the appellate authority. No interference is called for.

7. Having heard the learned advocates appearing for the respective parties and taking note that the scheme of the said Act, which, *inter alia*, provides for a remedy in the form of an appeal from the order passed under Section 74/73 of the said Act, I am of the view that ordinarily there is no scope to entertain the writ petition under Article 226 of the Constitution of India. Having regard to the efficacious alternative remedy available, the petitioners cannot be permitted to bypass the statutory remedy provided for. Although, the petitioners have relied on the judgment delivered by the Hon'ble High Court of Madras in the case of ***Titan Company Ltd (supra)*** to, inter alia, contend that the respondents cannot be permitted to bunch the show cause notices for consecutive tax period and on such ground the Hon'ble High Court of Madras had entertained the writ petition and had quashed the same, I find that the Hon'ble Court in the aforesaid judgment has not considered the issue of alternative remedy. The respondents also did not raise the issue of alternative remedy in such case.

8. Mr. Bag has also relied on a judgment of the Hon'ble High Court of Karnataka in the case of ***M/s Veremax Techonologie***

Services Limited (supra) in support of his contention. It appears that the Hon'ble High Court of Karnataka by placing reliance on the judgment of the Hon'ble High Court of Madras in the case of ***Titan Company Ltd (supra)*** and a judgment of the Hon'ble Supreme Court delivered in the case of ***State of Jammu and Kashmir and others vs. Caltex (India) Ltd.*** reported in ***AIR 1966 SC 1350*** had proceeded to conclude that the show cause notice issued by the respondents are fundamentally flawed and the practice to issue a single consolidated show cause for multiple assessment years contravenes the provisions of the GST Act and established legal precedents.

9. As rightly pointed out by Mr. Siddiqui, learned Additional Government Pleader the aforesaid judgments have been delivered under Section 73 of the said Act. Be that as it may, taking into consideration the fact that the petitioners have an efficacious alternative remedy, all such issues which the petitioners seek to raise can be decided by the appellate authority, I am of the view that there is no scope to entertain the writ petition especially having regard to the fact that the petitioners at the first instance after the aforesaid show cause was issued, did not proceed to challenge the same. The belated attempt made by the petitioners to challenge the show cause along with the final order appear to be an attempt made by the petitioners to abruptly stall the multi-tiered adjudicatory process provided for in the scheme of the said Act. No exceptional case for interference has been made out. There is no explanation for the delay in filing the petition as well.

10. Having regard thereto, the writ petition fails and is accordingly dismissed without any order as to costs.

11. 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.)