09.06.2025
Item No
A 19
Saswata

WPA 2754 of 2025

Sudarshan Sarker
versus
The Union of India & Ors.

Mr. Himangshu Kumar Ray
Ms. Shiwani Shaw
Mr. Animitra Roy
Mr. Gaurav Chakraborty
...For the petitioner
Mr. Anirban Ray, Ld. GP
Mr. Md. T.M.Siddiqui, Ld. AGP
Mr. Nilotpal Chatterjee
Mr. T. Chakraborty
Mr. S. Sanyal
...For the State
Ms. Manasi Mukherjee
Mr. Bijitesh Mukherjee
...For the CGST

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

2. The present writ petition has been filed, inter alia, challenging the order dated 31st December 2024 passed by the appellate authority under Section 107 of the WBGST / CGST Act, 2017 (hereinafter referred to as the "said Act").

3. Mr. Ray, learned advocate appearing for the petitioner would submit that the petitioner seeks to assail the aforesaid order on two fold grounds. Primarily, the petitioner submits that the appellate authority had decided the matter ex parte without providing further opportunity of personal hearing to the petitioner to present his case, especially since he is a 73 year old person.

4. Independent of the above, he submits that having regard to the provisions contained under Section 107(12) of the said Act, the appellate authority was under an obligation to decide the points raised and adjudicate the appeal independent of the fact whether petitioner had appeared before the appellate authority. According to him, the decision rendered by the appellate authority is a non speaking order and has been issued in non-compliance of the provisions of Section 107(12) of the said Act. In support

of his aforesaid contention, he has placed reliance on the judgment delivered by the Hon'ble Division Bench of this Court presided over by the Hon'ble the Chief Justice in the case of ***Madhusudan Banik, Proprietor of M.M.Pharmaceuticals versus State of West Bengal & ors.,*** reported in **2025 (4) TMI 94- Calcutta High Court**.

5. Ms. Mukherjee, learned advocate enters appearance on behalf of the CGST authorities. She would, however, submit that in the instant case the petitioner was afforded with repeated opportunities to appear. The petitioner did not avail such opportunities. Having thus, failed to take benefit of personal hearing, the petitioner cannot complain of failure of natural justice. According to her, the appellate authority had rightly rejected the appeal and no interference is called for.

6. Heard the learned advocates appearing for the respective parties and considered the materials on record.

7. Admittedly, in this case it would transpire that the petitioner was afforded with repeated opportunities of personal hearing. The petitioner did not avail the same. Mr. Ray would however, contend that the petitioner being an aged person and dependent upon tax consultant, had no fault in not availing the benefit of personal appearance since, the tax consultant who was entrusted with the duty to represent him did not appear.

8. Although, the aforesaid ground does not appear to be justified, however, taking into consideration the fact that the order impugned is an unreasoned order and does not comply with the provisions of Section 107(12) of the said Act and since there appears to be no reasons for rejecting

the appeal on merit, I am of the view that the aforesaid order passed by the appellate authority cannot be sustained. Accordingly, while setting aside the order dated 31^{st} December 2024 passed by the appellate authority, I remand the matter back to the appellate authority for fresh adjudication on merit.

9. With the above observation and direction, the writ petition is disposed of.

10. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon completion of requisite formalities.

(Raja Basu Chowdhury, J.)