AD 4
30.06.2025
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Ct 5

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4149 of 2025

Synthroma Laboratories
Versus
The State of West Bengal & Ors.

Ms. Sweta Mukherjee
... For the petitioner.

Mr. Anirban Ray, GP
Md. T. M. Siddiqui, AGP
Mr. Tanoy Chakraborty
Ms. Sumita Shaw
Mr. Saptak Sanyal
... For the State.

1. Affidavit of service filed in Court today is taken on record.

2. This matter has come up under the heading "*to be mentioned"* since the petitioner wanted to provide further clarification. Having regard thereto, upon noting that both the parties are interested to make further submissions, the unsigned order dated 26th June 2025 is recalled and the matter is heard afresh.

3. Although the writ petition has been filed, inter alia, challenging pre-show cause notice dated 19th July, 2024 issued in Form GSTDRC-01A, threatening to invoke proceedings under Section 74 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") in respect of the tax period 2019-21, however, Ms. Mukherjee, learned advocate appearing

on behalf of the petitioner would submit that no steps have been taken in furtherance thereto with the object of defeating the valuable right of the petitioner to seek the benefit under Section 128A of the said Act. According to her, for the petitioner to be entitled to the benefit under Section 128A of the said Act, there must be a notice under Section 73(1) of the said Act. Unfortunately, the conduct of the respondents is aimed at frustrating the petitioner's right to seek benefit thereunder. Having regard thereto, she prays for a specific direction upon the proper officer so that the proper officer can decide on the pre show cause notice and if he is of the view that a notice under Section 73(1) or 74(1) of the said Act is required to be issued, to issue such notice, or in the alternative if he is of the view that the proceedings need to be dropped, to drop the proceeding.

4. Mr. Sanyal, learned advocate appears on behalf of the State respondents.

5. Having heard the learned advocates appearing for the respective parties and noting that the petitioner seeks to bring the pre show cause notice dated 19th July 2024 to a logical conclusion and considering the fact that the consideration on the pre show cause notice is pending for nearly a year, I am of the view that at this stage it would be prudent to direct the proper officer to decide on the pre show

cause notice on the basis of the response filed by the petitioner and if the proper officer is of the view that the pre show cause notice need not to be proceeded, the proper officer should drop the proceedings. On the contrary if he is of the view that a notice under Section 73(1) or 74(1) of the said Act should be issued, he shall forthwith issue the same.

6. Considering the peculiar facts and noting that the matter has been pending before this Court and noting that the pre show cause notice remains outstanding for a year, I am of the view that in the event the proper officer is of the view that the pre show cause notice is required to be issued under Section 73(1) of the said act, the petitioner shall be entitled to benefit of the Scheme introduced under Section 128 of the said Act provided the petitioner complies with all formalities and applies before the authority within 48 hours from the date of issue of such notice.

7. It is made clear that the aforesaid order has been passed in the peculiar facts noted hereinabove and shall not be construed as a precedent. The decision of the proper officer must be taken within two working days from the date of receipt of the order.

8. Since, no affidavits have been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

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

10. 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.)