28th July, 2025

Item no. DL 5
Court No. 05

Asraf, A.R.(Ct.)

In the High Court at Calcutta

Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 4318 of 2025**

In the matter of :

SUSANTA DEVNATH

.... Petitioner

VS.

DEPUTY COMMISSIONER OF STATE TAX & ORS.

....Respondents

For the Petitioner :
Ms. Sanjana Jha
Ms. Sukanya Dutta
Mr. Bikash K. Roy
Mr. Avinash Jha

....Advocates

For the Respondents / State :
Mr. Nilotpal Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
Mr. Debraj Sahu

....Advocates

1. The petitioner is a proprietor of a stationary store run under the name and style of “Devnath Stores” and carries on such business within the jurisdiction of this Court.

2. Challenging an order passed by the Appellate Authority under Section 107 of the West Bengal Goods and Services Tax Act, 2017 / Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the said Act”) dated 29th July, 2024 arising out of a determination made under Section 73 of the Said Act dated 12th September, 2023 in respect of tax period 01.07.2017 to 31.03.2018, the instant writ petition has been filed. The petitioner is aggrieved by the failure on the part of the

Authorities to afford an accommodation to the petitioner.

3. Having heard the learned advocates appearing for the respective parties, it would transpire that the appeal was validly filed and was duly supported by the predeposit as is required for maintaining the appeal. A notice of personal hearing was duly served on the petitioner. On the date fixed for personal hearing, i.e., on 4th April, 2024 since none represented the petitioner, the matter was adjourned and refixed for hearing on 7th May, 2024. Though none appeared on behalf of the petitioner on 7th May, 2024, one Mr. Narayan Mishra appeared on 9th May, 2024. Unfortunately, the said Mr. Narayan Mishra was not an authorized representative within the meaning of Section 116 of the said Act and accordingly was not permitted to represent the petitioner.

4. Following the above, the petitioner had approached the Authorities with a request to adjourn the matter as the petitioner's representative was waiting for Tax Practitioner's Certificate. The Appellate Authority in the facts chose it fit not to adjourn the appeal any further and had accordingly decided the appeal on merits with the finding that he had no reason to interfere with the decision of the Proper Officer in respect of their order passed under Section 73 of the said Act.

5. Though the petitioner was offered opportunity of personal hearing, however, having regard to the peculiar facts recorded above and since the petitioner would submit that the petitioner should be given one more opportunity to place its case, I am of the view that in the fitness of things, it would be appropriate to remand the matter back to the Appellate Authority.

6. Accordingly, the Appellate Authority is directed to give an opportunity of personal hearing and to decide the matter afresh.

7. The order dated 29th July, 2024 passed by the Appellate Authority under Section 107 of the said Act is hereby set aside. Consequential demand in Form APL-04 stands quashed. However, there will be no order as to costs.

8. The instant writ petition stands disposed of.

9. All parties shall act on the basis of server copy of this order duly downloaded from the official website of this Hon'ble High Court.

10. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after complying with all requisite formalities.

(Raja Basu Chowdhury, J.)