28th July, 2025

Item no. ML 39
Court No. 05

Asraf, A.R.(Ct.)

In the High Court at Calcutta

Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 4367 of 2025**

In the matter of :

SAMPA DAS

.... Petitioner

VS.

UNION OF INDIA & ANR.

....Respondents

For the Petitioner :

Mr. Promit Majumdar
Ms. Rupomita Ghosh

....Advocates

For the Respondents :

Mr. Vipul Kundalia, Sr. Advocate
Mr. Anurag Roy
Mr. Anindya Karan

....Advocates

1. The present writ petition has been filed, *inter alia*, challenging the show cause notice dated 2nd August, 2024 issued under Section 74 of the West Bengal Goods and Services Tax Act, 2017 / Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the said Act") including the notice in DRC-01 dated 3rd August, 2024 in respect of the tax period July, 2017 to March, 2020. The petitioner also seeks to challenge the final order passed under Section 74(9) of the said Act dated 24th January, 2025.

2. Mr. Majumdar, learned advocate appears in support of the writ petition and would submit that the primary challenge is directed against the show cause notice in Form DRC-01 being issued even prior to actual issuance of the show cause which according to him had been issued on 5th August, 2024. This apart by drawing attention of this Court to the statement of the show cause uploaded along with DRC-01, he would submit that such document had been prepared by one Mr. Inderveer Singh who is the Deputy Commissioner, Anti-Evasion Unit, CGST & CX, Kolkata South Commissionerate while the hearing in this case was conducted by one Mr. Satyajit Mandal, Assistant Commissioner, CGST & CX, Ballygunge Division, Kolkata South Commissionerate on 24th January, 2025.

3. Independent of the aforesaid, according to him the statement appended to the show-cause notice in DRC-01 was signed by the gentleman named Inderveer Singh. He would thus, submit that on such ground as well the order impugned cannot be sustained. Apart from the above, he would also raise the issue of multiple show cause notices, since in the instant case the show cause notices are dated 2nd, 3rd and 5th August, 2024. He also raises the issue of the show cause notice covering multiple years which according to him is also not permissible. In support of his above contention he has placed reliance on the judgment delivered in the case of ***Tharayil Medicals v. Deputy***

Commissioner, SGST Department, Thrissur, reported in **(2025) 173 taxmann.com 867 (Kerala).** He has also raised the issue of invoking the extended period of limitation in this case.

4. Mr. Kundalia, learned advocate appearing on behalf of the respondents, would submit that the matter was heard by a different officer than the officer who had issued the show-cause notice was never raised earlier. The petitioner participated in the proceeding. The above point was never argued or raised. There is no irregularity in the show-cause. No interference is called for.

5. Having heard the learned advocates appearing on behalf of the respective parties, I find that although, the petitioner seeks to question the authority of the Proper Officer to hear out the petitioner on the ground that the show cause was issued by a different authority, I find that the petitioner had never raised such an issue in course of hearing. Mr. Majumdar, learned advocate appearing for the petitioner would candidly submit that the aforesaid issue had not been raised earlier.

6. Having regard to the aforesaid, I am of the view that the petitioner cannot be permitted to raise the issue of violation of natural justice, having not raised the same contemporaneously. The petitioner has also not been able to demonstrate before this Court as to how the petitioner would be prejudice by reason of the Adjudicating Officer and the person issuing the show cause notice being different. On such ground as well, I am unable to accede to the aforesaid contention of the writ petitioner.

7. On the question of the show cause notice being issued on a particular date and being uploaded on a subsequent date, I find that admittedly the show cause notice was issued by one Inderveer Singh on 2nd August, 2024, the same was, however, uploaded on 3rd August, 2024. Later, when the said show cause was forwarded to the petitioner by registered post as rightly pointed out by Mr. Kundalia, learned Senior Advocate representing the respondents, the date of dispatch was marked on such letter on 5th August, 2024 along with the reference number. It is thus, clear that this is not a case of issuance of multiple show-cause notices. The second ground raised by the petitioner also cannot be sustained.

8. On the question of the show cause not disclosing appropriate grounds for invoking the extended period, I find that in paragraph 3.2 of the said show cause notice it has been clearly noted that the taxpayer had the sole intention to evade the

GST on the basis of non-submission and non-cooperation with the departmental officers. It has been also clearly noted that the tax payer had neither declared the material fact to the department nor did the taxpayer communicate with the department to clear the doubts, if any, regarding liability of GST. The same combined with non-payment of GST and the consequential investigation carried out by the Anti-evasion Branch and the revelation thereof, forms the basis for invoking the extended period.

9. Although Mr. Majumdar by drawing attention of this Court to paragraph 3.2 of the show cause would submit that in response to the query of the department the petitioner had submitted all documents and the aforesaid observations are without any basis, I am afraid that the Court exercising writ jurisdiction under Article 226 of the Constitution of India cannot go into such disputed question, the same would tantamount to re-appreciating evidence which is not permissible.

10. On the question of the authorities including multiple periods in one particular show cause, I find as pointed out by Mr. Kundalia that the respondents had proceeded with the failure on the part of the petitioner to make appropriate disclosure. This is not a case where the limitation would have intervened if separate notices were issued for different periods. Though, Mr. Majumdar by relying upon a judgment delivered in the case of ***Tharayil Medicals*** *(supra)* would contend that such a procedure is not possible, I, however, notice that the primary objection with regard to clubbing of multiple periods pertains to the issue of limitation. Such is not the case here. The judgment delivered in the case of ***Tharayil Medicals*** *(supra)* is thus, distinguishable on facts.

11. In the facts noted hereinabove, I find no cause to entertain the writ petition. The writ petition fails and is accordingly dismissed. However, there will be no order as to costs.

12. 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.

13. 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.)