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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5199 of 2025

Ram Kishan Agarwal
Versus
Superintendent of Central Tax, Group-5,
Circle-1, Kolkata Audit-II Commissionerate & Ors.

Mr. Rites Goel
Mr. S. Chakraborty
… For the petitioner.

Mr. Bhaskar Prosad Banerjee
Mr. Abhradip Maity
… For the CGST authorities.

Mr. Amitabrata Roy, Ld. GP
Mr. Nilotpal Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
… For the State.

1. The instant writ petition has been filed not only challenging the show cause notice issued under Section 74 of the WBGST/CGST Act, 2017, (hereinafter referred to as the "said Act") dated 14th June, 2024 for the financial years 2017-18 to 2021-22 but also the adjudication orders dated 21st January, 2025 passed under Section 74 of the said Act for the tax period 2017-18 to 2021-22 and the show cause notice dated 19th July, 2024 for the tax period 2017-18 to 2019-20 and the orders dated 4th February, 2025.

2. Mr. Goel, learned advocate appearing in support of

the writ petition at the very outset would submit that since the show-cause notices have been issued without there being any basis for invoking the extended period under the provisions of Section 74 of the said Act, the show-cause notices cannot be sustained. Since the show cause notices are bad, the consequential orders are also bad.

3. Having heard the learned advocates appearing for the respective parties, I find that in paragraph 4 of the show cause dated 14th June, 2024 specific reasons have been provided for invoking the extended period wherein it has been categorically noted that the tax payer had taken a conscious decision not to declare such tax liability under RCM with a purpose, and having regard thereto, the extended period was invoked. Insofar as the subsequent notice dated 19th July, 2024 is concerned I find in paragraph 3.1 of the show-cause that elaborate statement has been provided as regards suppression of facts and mis-statement made by the petitioner. Already adjudication orders have been passed. I am of the view, in a writ petition under Article 226 of the Constitution of India it shall not be proper to decide on a challenge to the adjudication orders when alternative remedy in the form of appeal is available.

4. The writ petition accordingly stands dismissed without any order as to costs.

5. Dismissal of the aforesaid petition shall not, however, stand on the way of the petitioner to approach the appellate authority. If the petitioner files appeals arising out of the orders impugned within a period of four weeks from date, the appellate authority shall having regard to the observation made herein hear out the appeal on merits, subject to compliance of other formalities by the petitioner.

(Raja Basu Chowdhury, J.)