Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 5233 of 2025

Baazar Style Retail Limited
versus
The Deputy Commissioner of Revenue & Ors.

For the petitioner	:	Mr. Vinay Shraff Mr. Dev Kumar Agarwal Ms. Swarnwarshi Poddar
For the State	:	Mr. A. Roy, GP Mr. Tanoy Chakraborty Mr. S. Sanyal
Heard on	:	10.09.2025.
Judgment on	:	**10.09.2025**

Raja Basu Chowdhury, J:

1. The instant writ petition has been filed, inter alia, challenging the show cause notice dated 8th March, 2021 issued under Section 74 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") for the tax period 2017-18.
2. It is the petitioner's grievance that along with show-cause notice issued under Section 74 of the said Act, no details of the show cause had been served.
3. The show cause was adjudicated and ultimately culminated in the adjudication order dated 4th January, 2025.

4. Mr. Shraff, learned advocate representing the petitioner would submit that the aforesaid adjudication order is a consequential order. Since, the show cause notice itself is defective, the order also cannot be sustained. In any event, it is submitted that the aforesaid show-cause notice issued under Section 74 of the said Act is not only defective but the same cannot be considered to be a notice within a meaning of Section 74(1) of the said Act.
5. Mr. Chakraborty, learned advocate appears on behalf of the respondents. Pursuant to the order dated 1st September, 2025, he has placed before this Court the instruction sheet and has acknowledged the fact that along with show cause notice issued under Section 74 of the said Act no specific details pertaining to the amount payable has been disclosed to the petitioner. Notwithstanding the above, he would submit that admittedly, the petitioner did not raise the aforesaid issue at the time of hearing of the show cause. The petitioner had participated in the proceedings. According to him, the petitioner had waived his right. As such, no interference is called for. Alternatively, he submits that this Court may grant liberty to the respondents to serve the statement in support of the show-cause.
6. Having heard the learned advocates appearing for the respective parties and having considered the materials on record, I find that in the instant case a show cause notice has been served on the petitioner under the provisions of Section 74(1) of the said Act. It is

true that a statement specifying the details of the amount payable has not been disclosed to the petitioner. Although, it is pointed out by Mr. Shraff, having regard to the provisions contained in Rule 142(1)(b) of the WBGST/CGST Rules 2017 (hereinafter referred to as the "said Rules"), the respondents were obliged to supply the petitioner the details of the amount payable and in absence of the details, the petitioner could not have appropriately responded to the show cause, I find that the aforesaid issue may not come up for consideration as the petitioner had never raised this point contemporaneously while responding to the show-cause. The petitioner had in fact duly responded to the show cause. I find from the response appearing at page 70 of the writ petition that a detailed response to the show cause had been furnished by the petitioner on the merits of the show-cause. Having regard thereto, it cannot be said that the petitioner had been denied the opportunity to appropriately understand the show cause and accordingly respond to the same. The petitioner has categorically responded identifying the diverse facts. From the aforesaid response it cannot be said that the petitioner was not aware of the contents of the show cause or was not able to appropriately respond to the same.

7. Although, Mr. Shraff, learned advocate representing the petitioner by placing reliance on the judgment delivered by the Hon'ble Supreme Court in the case of ***Commissioner of C. EX. Bangalore vs. Brindavan Beverages (P) Ltd.***, reported in **2007 (213)**

E.L.T.487 (S.C.) would contend that since, the show cause is the very basic foundation on which the department has to build up its case and if there is no sufficient statements made in the show cause and/or the show cause is vague, lacking in details and/or is unintelligible that is sufficient to hold that the noticee was not given proper opportunity to meet the allegations in the show cause notice, I find from the response filed that it is not the case of the petitioner that he did not get adequate opportunity to understand the show-cause or was facing any difficulty in responding to the same or since additional particulars to the show-cause were not furnished, the petitioner could not appropriately respond. I, however, find from the writ petition that the petitioner seeks to challenge the show cause, *inter alia*, on the ground that the same was not supported by the statement. It is not the petitioner's case that the petitioner was denied an opportunity to appropriately respond to the show cause. The contemporaneous response does not make out such a case. The judgment relied on by Mr. Shraff in the case of ***Commissioner of C. EX. Bangalore vs. Brindavan Beverages (P) Ltd.*** (supra) has been delivered in a different set of facts. The petitioner only tried to make out a case of statutory infraction since the petitioner was not served with the statement along with the show cause. In this case, the petitioner by responding to the show-cause on merits of the case without raising the above objection has in fact consciously given up the above point. The petitioner did not suffer any prejudice for the same.

8. In my view, the writ petition cannot be entertained especially when a multi-tired adjudicatory process is provided for. Admittedly, the petitioner has a remedy in the form of an appeal to challenge the adjudication order before the appellate authority. The writ petition has been filed to challenge the show cause itself. As noted above, on perusal of the materials on record since, it transpires that it is not the case of the petitioner that the petitioner had been deprived of an opportunity to appropriately respond to the same, there is no scope to entertain the writ petition on such ground. The writ petition accordingly stands dismissed.

9. Insofar as the challenge on the merits of the order is concerned, the petitioner shall be at liberty to challenge the same before the appellate authority if so advised.

10. In the event, an appeal is filed within a period of four weeks from date, the appellate authority, having regard to the observations made herein and upon compliance of other formalities by the petitioner, shall hear out and dispose of the appeal on merits, however, insofar as the challenge to the show cause is concerned, the same is final.

(Raja Basu Chowdhury, J.)

SB
A.R. (Court)