23.06.2025
Item No
AD 7
Saswata

WPA 10990 of 2025
Sreeragam Exports Private Limited
Versus
The Assistant Commissioner of State Tax & Ors.

Mr. Rites Goel
...For the petitioner
Mr. A.Ray, Ld. GP
Mr. Md. T.M.Siddiqui, Ld. AGP
Mr. T. Chakraborty
Mr. S. Sanyal
...For the State

1. As noted in the order dated 11th June 2025 the petitioner seeks to challenge the order passed by the respondent no.1 under Section 73 of the WBGST /CGST Act, 2017 (hereinafter referred to as the "said Act") dated 25th February 2025 for the tax period April 2020 to March 2021 not only on the ground of violation of the principles of natural justice but also on the ground of failure to comply with the statutory provisions especially under Section 75(4) of the said Act.

2. Today, Mr. Siddiqui learned Senior Advocate and Additional Government Pleader appears and places before this Court a copy of the order sheet dated 11th February 2025 to demonstrate that one Tarun Agarwal, the authorized representative of the petitioner had appeared for personal hearing. On the said date, the petitioner's representative was also called upon to produce additional documents within 5 days, i.e., 16th February 2025. From the document appearing at page 132 of the writ petition forming annexure p-10 being a print out of the email dated 13th February, 2025 it would transpire that the petitioner in furtherance to the above direction had forwarded / resent the previous email. The tenor of the letter would record "*Dear sir, as instructed we are resending the emails*".

3. Although, the petitioner has claimed no notice of personal hearing was given or offered, from the above disclosure and a perusal of the order dated 11th February,

2025 and the communication issued by the petitioner on 13th February 2025, the case made out by Mr. Siddiqui appears to be plausible. It is thus amply clear that in this case, the petitioner was provided with an opportunity of personal hearing.

4. The object of the statute is to ensure that when a request for opportunity of hearing is received in writing or where an adverse decision is contemplated, a personal hearing must be offered. There is no denial of the fact that in the instant case, a personal hearing has duly been offered. As to whether such direction for personal hearing finds place in the show cause notice or not, pales into insignificance having regard to the presence of the petitioner's representative before the proper officer on 11th February, 2025 and the compliance of such direction by communication dated 13th February, 2025.

5. On the issue as to whether the documents had been appropriately considered by the proper officer, I am of the view that this Court cannot be called upon to examine the same at the first instance especially when an appellate remedy has been provided for in the said Act. In view thereof, while refusing to entertain the writ petition though noting that the petitioner cannot be rendered remediless, having regard to the fact that the appellate tribunal is yet to be constituted, I permit the petitioner to approach the appellate authority and prefer an appeal.

6. In the event, such appeal is filed within a period of 4 weeks from the date of receipt of the server copy of this order upon compliance of all formalities by the petitioner,

the appellate authority shall hear out and dispose of the appeal on merit.

7. With the above observation and direction, the writ petition is disposed of.

8. 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.)