09 23.12.2025

Ct. No. 551

Ab

WPA 11034 of 2025

S.K.M. Timber Private Limited
Vs.
Superintendent of Central Tax,
Burrabazar Division, Kolkata North CGST &
CX Commissionerate and others.

Mr. Sanjay Bhaumik,
Mr. Sourav Chander,
Mr. Nilanjan Bhattacharya.
... for the petitioner.

Mr. Shiv Sankar Banerjee,
Mr. Bijitesh Mukherjee.
... for the CGST Authorities.

Mr. Asit Kumar De,
Mrs. Susmita Senapati.
... for the respondent no. 4.

1. This writ petition assails an order dated December 9, 2024 passed by the Superintendent, Range-4, CGST, whereby the petitioner's registration has been cancelled by invoking the provisions of Section 29(2)(e) of the CGST Act, 2017/WBGST Act, 2017 (in short 'said Act of 2017').
2. The facts of the case in brief are that a notice to show cause dated March 14, 2024 was issued to the petitioner calling upon it to explain as to why its registration should not be cancelled. The petitioner replied thereto but despite such reply, the CGST authorities did not conclude the proceedings.
3. Feeling aggrieved thereby and assailing the said notice to show-cause, the petitioner approached

this Court by filing a writ petition being WPA 26343 of 2024. The said writ petition was disposed of by an order dated October 29, 2024 thereby directing the respondent authorities *"to dispose of the matter in accordance with law upon giving effective hearing to the petitioner either in person or through its lawyer within a period of thirty days from the date of communication"* of the said order.

4. Upon the said order being passed, the respondents-CGST Authorities called the petitioner for hearing, but the matter still remained pending as no order was passed.
5. The petitioner then approached this Court for the second time by filing CPAN 61 of 2025 complaining of an act of contempt of the order dated October 29, 2024 passed in WPA 26347 of 2024 on the part of the relevant CGST authority.
6. CPAN 61 of 2015 was disposed of by this Court by directing the respondent-Assistant Commissioner, CGST and Central Excise to communicate the outcome of the hearing in writing to the petitioner within seven days from the date of the order.
7. Upon such order being passed, the order impugned dated December 9, 2024 has been communicated to the petitioner. Hence, this writ petition.
8. Mr. Bhaumik, learned Advocate appearing on behalf of the petitioner, invites the attention of this

Court to the notice to show-cause dated March 14, 2024 (Annexure-'P3' at page 39 of the writ petition) and submits that the said notice is bereft of any material that could give the petitioner any inkling of what the petitioner is required to answer and is sans DIN. It is also pointed out that the said notice has also not been digitally signed.

9. Mr. Bhaumik further submits that despite several anomalies and irregularities being there in the notice to show-cause, the petitioner replied to the same. It is submitted that despite such reply, the proceeding was not concluded by the CGST Authorities for which the petitioner had to approach this Court by filing the earlier writ petition and then in contempt proceeding.

10. Inviting the attention of this Court to the hearing notice dated November 22, 2024 (Annexure- 'P10' at page 88 of the writ petition), it is submitted by Mr. Bhaumik that the said notice was given to the petitioner by the Assistant Commissioner, Burrabazar Division, CGST & CX, Kolkata North Commissionerate in compliance with the order passed in WPA 26343 of 2024 however despite direction of this Court on the said authority to conclude the proceeding and to communicate the outcome thereof, the order impugned has been passed by the Superintendent.

11. Mr. Banerjee, learned Advocate appearing for the CGST Authorities, submits that the order impugned has been passed upon taking into consideration the communication of the Assistant Commissioner, Anti-Evasion CGST & CX, Kolkata North Commission (appearing at pages 105 to 108 of the writ petition), wherefrom it would appear that the petitioner was involved in fraudulent activities leading the evasion of tax.

12. It is submitted that since the aforesaid communication is already there on record and forms the basis of the order impugned, the petitioner can at best be given a post decisional hearing and the order impugned should not be interfered with.

13. Heard the learned Advocates appearing for the respective parties and considered the material on record.

14. It is evident from the material on record that the petitioner had approached this Court earlier by filing WPA 26343 of 2024 mounting challenge to the notice to show-cause dated March 14, 2024. A Coordinate Bench of this Court took note of the challenge in the opening sentence of the order itself by stating thus - *"the present writ petition has been preferred challenging the show cause notice dated 14.03.2024 for cancellation of registration under*

CGST." However the notice to show-cause was not set aside by this Court. In such view of the matter the challenge now thrown to the same show-cause notice will no longer be sustainable as the same will be deemed to have answered against the petitioner in view of the principles of constructive *res judicata.*

15. Insofar as the challenge thrown to the order impugned i.e. the order dated December 9, 2024, is concerned, the same deserves to be allowed. The order dated December 9, 2024 cannot withstand scrutiny of this Court. Although the order records that the petitioner had used a reply to the notice to show-cause but the order has not dealt with the reply at all. The order does not disclose any application of mind to the matter.

16. The opening portion of the one page order refers to the issuance of the notice to show-cause and an opportunity given to the petitioner to file a reply to the show-cause. The order thereafter briefly refers to provisions of Section 29(2)(a) of the said Act of 2017, and then abruptly records a conclusion in the following manner:

> *"Remarks:*
> *As per Hon'ble High Court order, the Personal hearing has been conducted in due time but due to technical glitch ARN was not visible in GST back office Portal. A ticket was raised describing the situation thereafter, the ARN was visible in the Portal. According to the order of Investigation Authority, the GST Registration is being cancelled ab-initio,*
> *The effective date of cancellation of your*

registration is 28/12/2020."

17. The order thus does not disclose any reason for the conclusion reached by the ordering authority. It is now well settled that reasons are the live-links between the narrative and directive and absence of reasons would make the order a nullity.

18. Interestingly, while the notice for personal hearing dated November 22, 2024 was issued by the Assistant Commissioner, CGST & CX, Burrabazar Division (Annexure- 'P10' at page 88), but the order impugned has been passed by the Superintendent. The order therefore defies the very well settled principle that an order must be passed by the authority who hears the parties or that one who hears must decide.

19. Since the order is palpably bad, no purpose would be served by affording the petitioner a post-decisional hearing. Post-decisional hearing is not to be ordinarily directed by Courts and it is not at all meant for cases like the one at hand where a final order has been passed without any application of mind and without recording any reason. It is well settled that post-decisional hearing does not sub-serve the rules of natural justice and therefore the submission of Mr. Banerjee is not accepted.

20. For all the reasons aforesaid, the order dated December 9, 2024, impugned in the writ petition, is

set aside. The adjudicating authority shall hear the petitioner once again, consider the reply to the show-cause that has been filed by the petitioner earlier and then pass a fresh order in accordance with law.

21. It is clarified that this Court has not gone into the merits of the case and all points are left open to be decided by the adjudicating authority strictly in accordance with law.

22. Since the case involves cancellation of the petitioner's registration, the adjudicating authority shall dispose of the matter within a period of four weeks from the date of communication of this order.

23. As requested by Mr. Bhaumik, if the petitioner wants to furnish any additional document in support of the petitioner's contention, the petitioner shall be permitted to do so in accordance with law.

24. WPA 11034 of 2025 stands disposed of with the above observations. There shall, however, be no order as to costs.

25. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Om Narayan Rai, J.)