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Ct.5.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 13997 of 2025

Shashi Kant Jaiswal & Anr.
Versus
Assistant Commissioner of State Tax,
Shyambazar- Manicktola-Beadon Street Charge & Ors.

Mr. Abhijat Das
Ms. Aratrika Roy
Mr. Anirban Chatterjee
... For the petitioners

Mr. Saptak Sanyal
Mr. Debraj Sahu
... For the State

1. Affidavit of service filed in Court is taken on record.

2. The instant writ petition has been filed not only challenging the order passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act"), in respect of the tax period April, 2020 to March, 2021 dated 4th February, 2025, but also the attachment of the petitioners' bank account maintained with the Central Bank of India effected vide notice issued under Section 79(1)(c) of the said Act on 11th June, 2025 in Form GST DRC 13.

3. Having heard the learned advocates appearing for the respective parties it would transpire that the petitioners would contend that the petitioners had no knowledge or notice with regard to the show cause since all proceedings, inter alia, including the show cause

notice was uploaded under the head "view additional notices and orders", though ordinarily the same ought to have been uploaded under the head "view notices and orders". It is for such reason the petitioners being unaware of the show cause notice could not respond to the show cause. The petitioners were also not aware of the consequential demand made under Section 73 of the said Act by an order dated 4th February, 2025 in Form DRC 07. It is only when the petitioners' electronic credit ledger was debited against the aforesaid demand to the extent of Rs.75,354/-, that the petitioners upon enquiry had come to learn with regard to the above. Even before the petitioners could react, the notice under Section 79(1) of the said Act was issued attaching the petitioners' bank account. Following the above the writ petition appears to have been filed.

4. On the basis of materials on record, taking into consideration the fact that the petitioners may not have noticed the proceedings and may not have contested the same by reasons of the notice of the proceeding being uploaded on the "view additional notices and orders" section of the portal, which resulted in the above order being passed without due notice of the petitioner, cannot be ruled out. It is true that as per Section 169 of the said Act, uploading a notice on the portal is deemed to be valid service, but in my view the mode and manner of upload must be as per the general practice. Usually all notices and orders are uploaded under the "view notices and

orders". It is unusual to upload the notice in the additional notice tab. If the petitioners had no notice, the petitioners could not have also been aware of the show cause. The petitioners could not also possibly been aware of the determination made, for the petitioners to file an appeal in time.

5. Be that as it may, considering the fact that already a sum of Rs.75,354/-has been deducted from the petitioners' credit ledger, I am of the view that it shall be prudent at this stage to permit the petitioners to prefer an appeal from the aforesaid order dated 4th February, 2025, without going into the disputed arena as to whether there was proper service of the notice and order, on the petitioners.

6. As such, if any such appeal is filed by the petitioners within a period of four weeks from date, the appellate authority without insisting for further pre-deposit from the petitioners shall hear out and dispose of the appeal on merits and shall accept the documents, if any, and the defense put forward by the petitioners. It is made clear that the sum of Rs.75,354/- shall be retained to the credit of the proceedings.

7. The consequential attachment order issued by the respondents effected vide notice dated 11th June, 2025 in From GST DRC 13, in the facts as noted above, can no longer be sustained, the same is accordingly quashed.

8. It is, however, made clear that the aforesaid order has been passed on the premise that the petitioners

would prefer an appeal. If no appeal is filed within four weeks as directed above, the petitioners shall not be entitled to the benefit of this order and the respondents shall be at liberty to enforce the original demand in accordance with law.

9. With the above observations and directions the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)