

50. 19.05.2025
(M/L) Court No.05.

(Pritam)

WPA 21567 of 2024

Global Enterprise

-Vs.-

**Additional Commissioner of CGST & CX, Kolkata
South Commissionerate, Kolkata & Ors.**

Mr. Sanjoy Bhowmick,
Mr. Purnendu Sekhar Bhadra.

...for the petitioner.

Mr. U. S. Bhattacharyya,
Ms. Ekta Sinha.

...for the CGST Authorities.

Mr. P. K. Bhowmick,
Mr. Amit Sharma.

....for the respondent no.5/UoI.

1. Challenging the order in original dated April 10, 2024 passed by under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") in respect of the tax period 2018-2019 to 2021-2022, the instant writ petition has been filed. It is the petitioner's case that a show-cause dated December 29, 2023 was issued under the provisions of Section 73 of the said Act. According to the petitioner, though the show-cause permitted the petitioner to respond to the same within 30 days from the date of receipt of such show-cause, however, prior to expiry of the aforesaid period by notice in writing dated January 10, 2024, the petitioner was directed to appear for personal hearing on January 17, 2024. The petitioner on the said date could not attend

such hearing. Subsequently, the petitioner claims to have received a further notice dated January 29, 2024, but unfortunately on this occasion as well the petitioner could not attend due to preoccupation and had accordingly sought for an adjournment by a letter dated January 31, 2024. The petitioner claims that still later though no further notice was provided for personal hearing, petitioner was served with an order in original dated April 10, 2024, wherefrom the petitioner came to learn that a further opportunity for personal hearing on February 15, 2024 was offered. According to the petitioner, no notice/intimating the petitioner as regards the personal hearing to be held on February 15, 2024 was provided.

2. Learned advocate appearing for the petitioner would submit that the instant case is of violation of principles of natural justice and this Court may be pleased to set aside the order impugned and remand the matter back to the Proper Officer for a fresh adjudication.
3. Mr. Bhattacharya, learned advocate appearing on behalf of the CGST Authorities, on the other hand, by drawing attention of this Court to the order in original would submit that as would appear therefrom the petitioner did not respond to the show-cause. The petitioner was served with repeated notices and was afforded with opportunity of personal hearing on three occasions which the petitioner did not take. According to him, all the notices

were forwarded to the petitioner through e-mail. Accordingly, the petitioner having been provided with adequate opportunity to appear and on its failure to appear, the Proper Officer had rightly passed the order impugned and no interference is called for.

4. Having heard the learned advocates for the respective parties, I find that in this instant case, a show-cause notice was issued, on the petitioner on December 29, 2023. The petitioner despite being afforded with an opportunity to respond to the same did not file its response. On the petitioner's own showing the petitioner on two occasions received the communications calling upon the petitioner to appear for personal hearing. No attempt was made by the petitioner to appear. Although, the petitioner contends that the petitioner was not informed with regard to the personal hearing fixed on February 15, 2024, I find that the same is difficult to accept, having regard to the fact that the notices were served to the petitioner by e-mail communications. Even after the order in original dated April 10, 2024 was passed, no immediate attempt was made by the petitioner to challenge the same.

5. Admittedly, the said Act provides for a multi-tier adjudicatory process. The petitioner otherwise has an efficacious alternative remedy available. Having regard thereto, I am not inclined to entertain the writ petition. However, at the same time, it must be noted that the

petitioner cannot be rendered remediless. On the prayer of the learned advocate for the petitioner, in the event the petitioner prefers an appeal from the order impugned within four weeks from date, the Appellate Authority having regard to the pendency of the instant case before this Court and the observations made herein shall hear out and disposed of the appeal on merits subject to compliance of other formalities by the petitioner and upon the petitioner filing an application for condonation of delay.

6. With the aforesaid observations, the instant writ petition being WPA 21567 of 2024 is disposed of. There shall be no order as to costs.
7. Urgent Photostat certified copy of this order may be supplied to the parties upon all formalities, if applied for.

(Raja Basu Chowdhury, J.)