

WPA 21277 of 2025

24.11.25
Sl-24
Ct.551
(S.R.)

**JCI Chemicals India Pvt. Ltd.
v.
The State of West Bengal & Ors.**

Mr. Avra Mazumder
Ms. Alisha Das
Ms. Elina Dey
Mr. Suman Bhowmik
Mr. Siddhartha Das ... for the petitioner.

Mr. Tanoy Chakraborty
Ms. Sumita Shaw
Mr. Saptak Sanyal
Mr. D. Sahu ... for the State.

Mr. Bhaskar Prosad Banerjee
Mr. Tapan Bhanja ... for the CGST & CX authorities.

1. The petitioner is aggrieved by an order dated August 13, 2025 passed by the Deputy Commissioner, Chowringhee Division, Kolkata North CGST & CX Commissionerate whereby the petitioner's application for rectification of an order in original dated February 5, 2025 has been rejected.
2. Mr. Mazumder, learned advocate appearing for the petitioner submits that the order impugned has been passed in total derogation of the principles of natural justice. It is submitted that the petitioner had indicated good grounds for rectification of the order in original dated February 5, 2025 and that the petitioner's application specified the errors apparent on the face of the record which ought to

have been taken into consideration by the respondent GST authority prior to rejecting the petitioner's application for rectification. It is further submitted that the petitioner had made a specific prayer for affording an opportunity of personal hearing to the petitioner but despite such prayer being made, the respondent CGST authority has rejected the petitioner's application for rectification without affording any opportunity of hearing to the petitioner.

3. In support of his contention that a GST authority considering an application for rectification is required to hear the applicant, Mr. Mazumder relies on a judgment of the Hon'ble High Court of Madras in the case of *Aries Interior v. State Tax Officer* reported in [2025] 180 taxman.com 6 (Madras).
4. Mr. Banerjee, learned advocate appearing for the respondent CGST authority invites the attention of this Court to the third proviso of Section 161 of the CGST Act, 2017 and submits that the principles of natural justice are to be followed by the authority only where a rectification adversely affects any person. It is submitted that in the case at hand no rectification was done and, therefore, question of hearing the petitioner did not arise.
5. Heard learned advocates appearing for the

respective parties and considered the materials on record.

6. The third proviso to Section 161 of the CGST Act reads as follows: -

“Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification”

7. A reading thereof would reveal that following principles of natural justice is mandatory in all cases where rectification adversely affects a person.
8. The Hon’ble High Court at Madras has in the case of *Aries Interior* (Supra) considered the scope of the said proviso. Paragraph 7 of the judgment which is relevant to the context is extracted hereinbelow for facility of reference: -

“7. However, the 3rd Proviso will apply to the situation where there is a suo motu attempt to rectify the order and where enhancement is proposed. However, that would not mean that an application filed under Section 161 of the respective GST enactments, the party should not be heard who had filed an application for Rectification of Order. Whether indeed the case is made out or not as to whether there is any error apparent on the fact of record has to be also preceded by a personal hearing.”

9. The statute is silent as to the course required to be taken by the authority if an order rejecting an application for rectification filed by a person is in

contemplation. Does it mean that the explicit mandate to observe principles of natural justice in cases where rectification would adversely affect a person impliedly prohibits observance of such principles in all other cases? The answer in the considered opinion of this Court would be in the negative. The right approach would be to first see if the action or order would have any civil consequence on the person to whom the action or order is directed and to then decide whether principles of natural justice are required to be followed or not. If the action or order would have civil consequence, observance of natural justice would be almost mandatory.

10. In the case at hand, the petitioner has made an application seeking rectification of certain errors which include mismatch of tax determined. To wit, it is the petitioner's case that the summary order in Form DRC-07 and the detailed order in original show different amounts of taxes determined and the aggregate tax demands differ. It is submitted by the petitioner that in such event it would be difficult for the petitioner to calculate the exact amount required to be put in to meet the mandatory statutory pre-deposit for the purpose of filing appeal against the said order. However little the effect of

the mismatch be on the amount of statutory pre-deposit, the petitioner's inability to determine the same on the ground of mismatch and its consequent failure to prefer appeal against an order by which it is aggrieved is a civil consequence. Such issue needed to be addressed and if it was not required to be addressed in law reasons for the same needed to be spelt out. The order impugned offers no reason at all.

11. In such a fact situation, if the petitioner's application for rectification is dismissed without hearing the petitioner that would not be proper dispensation of justice.

12. In view of the case run in the writ petition and in the facts and circumstances of the instant case, this Court is of the view that in the instant case the respondent CGST authority ought to have afforded an opportunity of hearing to the petitioner more so because the petitioner has itself requested for a personal hearing.

13. In such view of the matter, the order impugned dated August 13, 2025 is set aside and the matter is remanded to the file of the respondent no.6, i.e. Deputy Commissioner, Chowringhee Division, Kolkata North CGST & CX Commissionerate for considering the petitioner's

application afresh and decide the same, in accordance with law, upon affording an opportunity of hearing to the petitioner within three weeks from the date of communication of this order.

14. It is made clear that this Court has not gone into the merits of the rectification application and the matter is being remanded only for the purpose of observance of the principles of natural justice and the authority concerned shall be free to take a reasoned decision in accordance with law.
15. WPA 21277 of 2025 stands disposed of with the above observations.
16. There shall, however, be no order as to costs.
17. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)