

09.12.2025

**DL-07
Ct. No. 551
Srimanta**

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA/24188/2025

**M/s. Duttcon Consultant and Engineers Private
Limited**

-Vs.-

**Assistant Commissioner of State Tax,
Shyambazar Charge & Ors.**

Mr. Sandip Choraria,
Mr. Akash Chakraborty,
Mr. Rishav Manna

...for the petitioner.

Mr. Tanoy Chakraborty,
Ms. Sumita Shaw,
Mr. Saptak Sanyal,
Mr. S. Chatterjee

...for the State.

Heard the Learned Advocates appearing for the respective parties and considered the material-on-record.

The petitioner assails the show cause notice in summary form i.e. Form GST DRC – 01 dated June 13, 2024 as also adjudication order dated July 15, 2024 communicated to the petitioner in summary form i.e. in Form GST DRC – 07 in proceedings under Section 73 of the WBGST Act, 2017/CGST Act, 2017.

Mr. Choraria, Learned Advocate appearing for the petitioner submits that the show cause that was issued to the petitioner was only in the summary

form and no details were provided so as to enable the petitioner to respond thereto appropriately. It is further submitted that as the petitioner could not respond to the said show cause notice, the proceedings were concluded ex parte and the adjudication order that was passed was again communicated to the petitioner in summary form, i.e., in Form GST DRC – 07 bereft of the details as mandated by Section 75(6) of the said Act of 2017.

Mr. Choraria further submits that all of these notices and orders were uploaded on the GST Portal under the “additional notices and orders” tab and as such the petitioner could not become aware thereof. It is submitted that since no details whether factual or otherwise were provided either in the notice to show cause or the order passed by the adjudicating authority both are non-est in the eye of law. It is further submitted that no opportunity of hearing was granted to the petitioner as well.

Mr. Chakraborty, Learned Advocate appearing for the respondents/GST Authorities submits that the writ petition should not be entertained inasmuch as it has been filed belatedly.

It is noted that the order impugned was passed on July 15, 2024 and the writ petition has been filed on October 14, 2025. It is the petitioner’s case that

the petitioner was unaware of the order and the notices inasmuch as the same were uploaded on the GST portal under the “additional notices and orders” tab and that the petitioner became aware thereof only upon a garnishee notice under Section 79(1)(c) read with Rule 145(1) of the WBGST Act, 2017 and WBGST Rules, 2017 respectively being issued to the petitioner’s Bank by the respondent/GST Authorities. This Court has in the case of *Sankar Agarwala vs. The Joint Commissioner of CGSt and Central Excise (Appeal), Siliguri appeal Commissionerate & Ors.* reported at 2025 (1) TMI 295 Calcutta High Court while relying on a Division Bench judgment of this Court in the case of *Ram Kumar Sinhal vs. State of West Bengal* reported at (2025) 177 taxmann.com 48(Calcutta) held that notices and orders served by way of uploading under the “additional notices and orders” tab on the GST portal is improper. In such view of the matter, this writ petition is entertained.

Section 75(6) of the said Act of 2017 mandates that the proper officer shall set out the relevant facts and the basis of his decision in the adjudication order that he has to pass. Even otherwise any order passed by any quasi judicial authority (and in most of the cases even administrative authority) must be informed by reason.

In the facts of the present case it is evident that the order that has been passed and communicated to the petitioner has remained in summary form. It is bereft of any detail and sans any reason. Such an order cannot sustain scrutiny under Article 226 of the Constitution of India. It is settled law that an order without reasons is a nullity more so when the same has civil and evil consequences. Furthermore, it is apparent and evident that no opportunity of hearing has been granted to the petitioner in terms of the mandate of Section 75(4) of the said Act of 2017 although an adverse decision was contemplated.

On the twin grounds aforesaid, the order impugned dated July 15, 2024 is set aside. Since it is evident that even the show cause notice is bereft of relevant particulars, it would not be possible for the petitioner to reply to the same in the absence of the factual and other details. Accordingly, the respondent no. 1 is directed to issue the detailed show cause notice to the petitioner in support of the summary Form DRC-01 within two weeks from the date of communication of this order. The petitioner shall have liberty to file reply thereto within two weeks thereafter and the adjudicating authority shall then proceed to pass appropriate order in accordance with law within two weeks from the date of receipt of the

petitioner's reply to the show cause notice. It is clarified that if the petitioner fails to file reply to the show cause notice within two weeks as indicated hereinabove the adjudicating authority shall be free to proceed ex parte.

Since the adjudication order has been set aside on the ground of the same not being in conformity with the provisions of Section 75(6) of the said Act of 2017 as also on the ground of the same having been passed in violation of principles of natural justice, the attachment of the petitioner's Bank account on the strength of the said order shall stand lifted.

It is clarified that the petitioner shall not be entitled to plead the bar of limitation to the adjudication proceedings on the strength of this order unless the petitioner was entitled to take such ground at the time when the summary show cause notice was issued to the petitioner (i.e. on June 13, 2024).

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

WPA/24188/2025 stands disposed of on the above terms.

(Om Narayan Rai, J.)