

17.07.2025
sayandeep
Sl. No. 03
Ct. No. 05

WPA 24497 of 2024

Mrs. Rashmi Rungta
Vs.
Union of India & ors.

Mr. Supriyo Chattopadhyay
Mr. Sudip Kr. Maiti
Ms. Debasree Chatterjee
.... for the petitioner

Mr. Kaushik Dey
Mr. Kaushik Kr. Maiti
.....for the CGST authority

Mr. Soumen Bhattacharjee
Ms. Sabita Roy
Mr. Ankan Das
Ms. Shradhya Ghosh
....for the UOI

1. Challenging an order in original dated 8th March, 2024 passed by the adjudicating authority pursuant to a show-cause dated 24th December, 2020 for the petitioner having, *inter alia*, contravened the provisions of Section 66B, 67,68,69 of chapter V of the Finance Act, 1994 (hereinafter referred to as the “said Act”) read with Rule 6 of Service Tax Rules, 1994(hereinafter referred to as the “said Rules”), the instant writ petition has been filed. The petitioner has chosen not to challenge the aforesaid order by way of an appeal before the appellate authority, instead has approached this Court complaining violation of principles of natural justice. The petitioner would contend that although, ordinarily the adjudicating

authority was duty bound to provide the petitioner with personal hearing, no such hearing was offered to the petitioner.

2. Mr. Chattopadhyay, learned advocate representing the petitioner by drawing attention of this Court to the reply to the show-cause notice dated 28th December, 2020 would submit that although, the phone number including e-mail id of the petitioner was made known to the respondents, the respondents chose not to communicate with the petitioner. According to him, after providing the response to the show-cause, the petitioner had shifted her residence to Gauhati, and as such was unaware of the notice sent at Kolkata address.
3. In the facts as noted hereinabove he would submit that the aforesaid order cannot be sustained and should be set aside.
4. Mr. Dey learned advocate appears on behalf of the respondents. He has drawn the attention of this Court to the order impugned and would submit that not only once but on several occasions, the petitioner was notified and was afforded opportunity of personal hearing. Such personal hearing was offered on 20th November, 2023, and 5th December, 2023 vide notices dated 2nd November, 2023 and 23rd November, 2023 respectively. The petitioner did not notify the respondents of the change of address. The petitioner at all materials times was and/or still residing at the

original address at 317 Lake town, North 24 Parganas, 700089 and such fact would also corroborate from the affidavit affirmed by the petitioner on 20th September, 2024. In such circumstances, he would submit that no case for interference having been made out, the writ petition should be dismissed.

5. Having heard the learned advocate appearing for the respective parties and considering the materials on record, it would appear that the petitioner was repeatedly offered opportunity of hearing. Although, the petitioner would complain that at the relevant point of time, the petitioner was in Gujrat and had no notice of personal hearing, however, I find that the petitioner had not only received the show cause notice but had duly responded to the same. The show-cause admittedly, was served at the petitioner's residence at Kolkata. The letterhead under which the petitioner had responded categorically notes the address of the petitioner to be at Kolkata. There is no communication from the petitioner whereby the petitioner had ever notified the respondents that the petitioner had shifted her residence. Further, having regard to the disclosure made by the petitioner in the affidavit of the present writ petition, it is apparent that the petitioner still has its address at 317 Laketown, Kolkata. Having regard thereto, it is difficult to accept that the petitioner had

no notice of the personal hearing being offered. If the petitioner chose not to take the opportunity of representing herself before the adjudicating authority, the respondents cannot be made responsible therefor.

6. The writ petition fails. The aforesaid order shall, however, not stand in the way of the petitioner for applying before the appellate authority, if so advised. At this stage, since Mr. Chattopadhyay, learned advocate would submit that the writ petition is pending before this Court since 20th September, 2024 and as such unless, this Hon'ble Court condones the delay in preferring the appeal, the petitioner shall find it difficult to have her appeal decided on merits.
7. Having regard thereto, I am of the view, in the event, the petitioner applies before the appellate authority within a period of four weeks from date, upon compliance of all formalities, the appellate authority shall hear out and dispose of the appeal on merits having regard to the observations made in the above.
8. With the above observations and directions, the writ petition is dismissed without any order as to costs.

(Raja Basu Chowdhury, J.)