HIGH COURT AT CALCUTTA

In the Circuit Bench at Jalpaiguri

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 410 of 2025

Anup Jindal

versus

Assistant Commissioner of Revenue,

Siliguri Charge and others

For the petitioners	Mr. Boudhayan Bhattacharyya Ms. Stuti Bansal Mr. Soumava Gangopadhyay
For the State	Mr. Hirak Barman Ms. Rima Sarkar
For the respondent Nos.5 & 7	Mr. Dilip Kumar Agarwal Mr. Bishwa Raj Agarwal
Heard on	03.03.2025
Judgment on	03.03.2025

JAY SENGUPTA, J:

Learned counsel for the petitioner submits as follows. A pre-show-cause notice issued was not uploaded in time in the official portal of the respondent authorities. So the petitioner did not know about it. So far as the show-cause notice dated 28.07.2023 is concerned, only a date was fixed for submission of reply. But, no date was mentioned for personal hearing, which was essentially required by the petitioner to explain the show-cause. The appellate order also does not properly appreciate the question of not giving a proper opportunity of hearing.

Learned counsel for the State denies the allegations and submits that the pre-show-cause notice was in fact uploaded in the portal in time. The appellate order is also a reasoned one. If a fresh show-cause is directed to be given, necessary time may be extended.

Learned counsel for the respondent Nos.5 and 7 are also represented.

Whether a pre-show-cause notice was issued and uploaded in the portal or not, the show cause notice dated 28.07.2023 does not provide a proper opportunity of personal hearing to the petitioner. It appears that the case is about non-payment of tax due or short payment of it or refund erroneously made or input tax erroneously availed or. Therefore, it was necessary for the authorities to grant an opportunity to the petitioner to have a personal hearing where books of accounts could be produced and the issues explained. No such opportunity was provided by the tax authorities.

Even the appellate forum failed to deal with issue properly.

In fact, an opportunity at the appellate stage would not be a substitute for an opportunity of hearing at the original stage in the present facts.

Accordingly, the said show-cause notice dated 28.07.2023, the adjudication order and the appellate order are set aside and the matter is remanded back to the tax authorities to issue fresh notice, if any, in accordance with law and if permissible in law.

With these observations, the writ petition is disposed of.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

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

(Jay Sengupta, J.)

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