

Court No. 2
(1545)

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

29.10.2025
(JPD 33)
(S. Banerjee)

WPA 2002 of 2025

Bratin Sikder
Vs.
The State of West Bengal & Ors.

Mr. Khushi Kundu
... for the petitioner

Mr. Momenur Rahman
Ms. Rima Sarkar
... for the State

This application under Article 226 of the Constitution of India is directed against an order dated January 24, 2024 passed by the Joint Commissioner of Revenue, Jalpaiguri Circle. By the order impugned, the petitioner was directed to pay the amount of tax, interest and penalty as indicated in the said order.

Petitioner is a sole proprietorship concern engaged in the business of work contracts. The petitioner is registered under the WBGST Act, 2017. A show-cause notice dated December 18, 2023 was issued. Since the show-cause notice was uploaded under the ‘Additional notices and orders’ tab on the portal, the petitioner claims that he was not aware of such show-cause notice and for which no reply to

the same could be submitted by the petitioner. Thereafter, the adjudicating authority passed the order impugned ex parte.

Learned advocate appearing for the petitioner submits that since the petitioner was not aware of the grounds on which the show-cause notice was issued as the same was not uploaded under the normal tab at the relevant point of time, the petitioner could not give a reply to the same. He thus submits that the petitioner should be afforded an opportunity to submit a reply to the show-cause and the adjudicating authority be directed to decide the matter afresh.

Ms. Sarkar, learned advocate appearing for the State submits that order impugned is an appellable order under the provisions of Section 107 of the West Bengal GST Act, 2017. She, therefore, submits that the writ petition should not be entertained.

Heard the learned advocates for the respective parties and perused the materials placed.

The petitioner has alleged that there has been gross violation of the principles of natural justice.

It is well-settled that availability of an alternative remedy cannot be an absolute embargo

in approaching the writ court in the event there has been violation of the principles of natural justice.

Ms. Sarkar learned advocate for the revenue, in her usual fairness, does not dispute the fact that at the relevant point of time the show-cause notice was available only under “Additional Notices and Orders” tab and not under the normal tab.

The petitioner claims that since the show-cause notice was not uploaded under the normal tab, he was not aware of the said show-cause notice for which he could not give a reply to the same.

The object behind issuance of a show-cause notice is to make the person against whom the authority is intending to proceed against to be aware of the reasons for which an action is contemplated and to afford an opportunity to such person to reply to the said show-cause notice.

After hearing the learned advocates for the respective parties, this court is of the considered view that the petitioner was deprived of the opportunity of giving a reply to the show-cause notice as there was no effective communication of the show cause notice. This court, therefore, holds that there has been gross violation of the principles of natural justice. For such reason, this court is inclined to entertain this writ petition.

It appears from the adjudication order that the demand raised in the show-cause notice was confirmed by the order of adjudication. The adjudication order was also an ex parte order. This court is, therefore, inclined to grant an opportunity to the petitioner to contest the proceeding from the stage of the show-cause notice as the show-cause notice is the basis of initiation of the instant proceeding.

For all the reasons as aforesaid, the adjudication order dated January 24, 2024 passed by the respondent no. 2 is set aside.

Liberty is given to the petitioner to give reply to the show-cause within a period of three weeks from the date of receipt of a server copy of this order.

If the reply to the show-cause notice is submitted within the date and time mentioned hereinbefore, the 2nd respondent shall fix a date of hearing and dispose of the proceeding by passing a reasoned order after giving an opportunity of hearing to the petitioner or his authorized representative.

Needless to mention, the reasoned order shall be communicated to the petitioner immediately thereafter.

It is, however, made clear that in the event the petitioner fails to submit the reply to the show-cause notice, this order shall not enure to the benefit of the writ petitioner and the writ petition shall automatically stand dismissed without any further reference to this court.

With the above observations and directions the writ petition is allowed.

There shall, however, be no order as to costs.

Urgent Photostat certified copy of this order be supplied to the parties upon compliance of requisite formalities.

(Hiranmay Bhattacharyya, J.)