

*D/L - 20*  
*06/11/2025*  
*Court. No. 2*  
*Aritra*

**In the High Court at Calcutta  
Circuit Bench at Jalpaiguri  
Appellate Side**

**WPA 2238 of 2025**

**M/s. Roy Construction & Company  
Vs.  
Assistant Commissioner, CGST  
& Central Excise, Siliguri  
Commissionerate & Ors.**

Dr. Navin Barik  
Ms. Esha Acharya  
Mr. Rimik Chakraborty

....for the petitioner

Mr. Dilip Kumar Agarwal  
Mr. Bishwa Raj Agarwal

....for the CGST

The petitioner has challenged the Order-in-Original passed by the Additional Commissioner, CGST and Central Excise, Siliguri Commissionerate.

Mr. Agarwal learned advocate appearing for the revenue authority raises an objection as to the maintainability of this writ petition in view of existence of an appellate remedy provided under Section 85 of the Finance Act, 1994.

The learned advocate appearing for the petitioner submits that the issuance of the show-cause notice was barred under the provisions of Section 73(4A) (b) of the Finance Act, 1994. He further submits that the show-cause notice was issued by the authority of the Siliguri Commissionerate and the matter was thereafter transferred to the Durgapur Commissionerate and ultimately the Order-in-Original was passed by the Siliguri Commissionerate. He submits that when the Durgapur

Commissionerate had given a personal hearing to the petitioner, the Siliguri Commissionerate could not have passed the final Order-in-Original.

Mr. Agarwal, learned advocate, disputes the aforesaid submission made by the learned advocate for the petitioner.

However, since the various factual and legal issues have been raised in this writ petition, this Court feels that the petitioner ought to have approached the alternative appellate remedy.

For such reason this Court is not inclined to entertain this writ petition. Accordingly, **WPA 2238 of 2025** stands disposed of by giving liberty to the petitioner to approach the appropriate forum in accordance with law. In the event, the appeal is preferred within a period of two (2) weeks from the date, the appellate authority shall consider the appeal on its merits without dismissing the same on the ground of limitation.

It will be open to the petitioner to raise all points before such authority in accordance with law.

All parties shall act with the server copy of this order duly downloaded from the official website of this Court.

***(Hiranmay Bhattacharyya, J.)***