06.10.2026

18 Ct. No.10

sdas

WPA 6439 of 2026

Debashis Dutta
vs.
The State of West Bengal & Ors.

Mr. Himangshu Kumar Ray
Mr. Saptak Sanyal
Mr. Subhasis Podder
Ms. Shiwani Shaw

.....for the petitioner

Ms. Manasi Mukherjee
Mr. BijiteshMukuerrjee

....for the State

1. Affidavit-of-service filed in Court today is taken on record.

2. None appears on behalf of the State-respondents in Court today.

3. Ms. Manasi Mukherjee, learned Junior Government Advocate with Mr. Bijitesh Mukherjee, learned Junior Government Advocate are engaged in this matter on behalf of the State. Their appearances be regularized accordingly from the office of the Legal Remembrancer.

4. The present Writ Petition has been filed challenging inter alia, the legality and the validity of the Adjudication Order dated 18.04.2024 passed by the respondent No. 4 under Section 73 of the West Bengal Goods and Services Tax Act, 2017 and Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act for the sake of brevity and convenience) for the period

from April, 2018 to March 2019. The petitioner also challenges the two recovery notices dated 06.03.2025 and 27.02.2026.

5. The Learned Counsel appearing for the petitioner submits as follows:

A) That a notice in Form GST DRC-01 dated 30.11.2023 has been issued to the registered tax payer requiring the petitioner to show cause as to why he should not pay the amount specified in the said notice along with interest and penalty.

B) That the said intimation has been uploaded on the GST portal under the Tab "Additional Notices and Orders".

C) That the date of the personal hearing mentioned in the Show Cause Notice as "N.A.".

D) That an ex parte adjudication order dated 18.04.2024, passed under Section 73 of the WBGST Act 2017, has been passed against the petitioner by the respondent No. 4.

E) Although the order of adjudication has been uploaded on the GST portal under the tab "Additional Notice and Orders", the petitioner has not been made aware of the order passed by the adjudicating authority.

F) That the respondent authority has already recovered the tax amounting to Rs 2,36,299/-

from the Electronic Credit Ledger, on 11.03.2026.

G) The petitioner prays for a reconsideration of the order of adjudication since the 38.69% of disputed tax has been recovered, and the interest of the revenue will not be prejudiced thereby.

H) The petitioner also prays that the matter to be remanded back to the adjudicating authority for fresh consideration of the issues involved therein, and also to set aside the two recovery notices both dated 06.03.2025 and 27.02.2026.

6. The Learned Counsel appearing for the State respondent submits that the amount of Rs.2,36,299/- has been recovered on account of tax from the electronic credit ledger without any recovery being made towards interest and penalty.

7. Having heard the parties and upon the considering the materials available on record, this court finds that the petitioner has been able to make out a prima facie case warranting interference at this stage.

8. The court also noted that the Show Cause Notice as well as the Adjudication Order has been uploaded only under the Tab “Additional Notices and Orders”, resulted in the petitioner being

deprived of knowledge of the proceedings, which constitutes a violation of principles of natural justice.

9. Since the 38.69% of disputed tax has already been recovered, the ends of justice would be made if an opportunity of hearing is granted to the petitioner.

10. The contention of the State that the matter has attained finality, cannot be accepted in light of the procedural irregularities noted above.

11. In view of the above, this court passes the following directions.

a) The order passed by the adjudicating authority dated 18.04.2024 along with the consequential notices are hereby quashed and set aside, since the petitioner cannot be held liable under adjudication order passed ex parte.

b) The respondent No. 4 is directed to reconsider the case of the petitioner and pass a reasoned and speaking order in accordance with law upon affording an opportunity of personal hearing to the petitioner. The decision so arrived at shall be communicated to the petitioner forthwith.

c) The entire exercise shall be completed by the respondent No. 4 on or before 30th September 2026. The petitioner shall cooperate

with the respondent No. 4 and shall not seek any further adjournment.

12. It is made clear since this court has not gone into the merits of the case, the respondent No. 4 shall not be influenced by any observation made in this order and is at liberty to take an independent decision to consider the issue involved herein.

13. With the above observations and directions, the Writ petition is disposed of since affidavit has not been called for.

14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all requisite formalities.

(Smita Das De, J.)