

Item No.
SL.12.
SD
3.2.26

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side.**

WPA 7574 of 2025

M/s. Priti Builders

Vs.

**Deputy Commissioner of State Tax, Bally and Salkia Charge &
Ors.**

Mr. Debasish Ghosh

Mr. Tanmay Hazra* *For the Petitioner.

Ms. Tanmoy Chakraborty

Mr. Saptak Sanyal* *For the State.

1. This writ petition assails, inter alia, an order dated December 18, 2024 passed under Section 74 of the WBGST Act, 2017/CGST Act, 2017(hereafter “the said Act of 2017”).
2. It is the petitioner’s case that a search and seizure operation had been conducted at the petitioner’s principal place of business on January 25, 2024 during which certain documents and books of accounts as well as the CPU of the petitioners’ computer were seized. Thereafter, an intimation under Section 74(5) of the said Act of 2017, as regards short payment of tax on outward supply on the ground of suppression was served upon the petitioner on March 18, 2024. The petitioner replied thereto on April 9, 2024, thereby, inter alia, requesting the respondent GST Authorities to supply a copy of the seized records as also to return

the CPU so as to enable the petitioner to participate in the adjudication proceedings in an informed manner.

3. It is the petitioner's case that the petitioner was neither provided the copy of the seized documents nor was the CPU returned to the petitioner. Subsequently, a notice under Section 74(1) of the said Act, of 2017 was issued calling upon the petitioner to show cause as to why the petitioner shall not be held liable for payment of tax on account of suppression.
4. Subsequently, a notice for personal hearing was issued to the petitioner. But the petitioner did not appear before the authorities on the said date.
5. However, the petitioner replied to the notice to show cause on August 6, 2024 thereby once again reiterating that the copies of the seized documents and the CPU may be returned to it. Ultimately, the order impugned was passed confirming the demand raised against the petitioner in the notice to show cause without affording any further opportunity of hearing to the petitioner upon receipt of the petitioner's reply dated August 6, 2024 to the notice to show cause.
6. It is the petitioners case that neither the copies of the seized documents were made available to the

petitioner nor was the CPU returned to it and as such the petitioner could neither properly participate in the adjudication proceeding nor file a proper appeal. Hence the writ petition.

7. Mr. Ghosh, learned Advocate appearing for the petitioner submits that despite repeated requests, the respondent GST Authorities did not furnish copies of the seized copies to the petitioner. The CPU of the petitioner that had been seized was also not supplied to the petitioner. That being the situation, the petitioner was unable to frame its defence appropriately and to meaningfully participate in the adjudication proceedings. It is submitted that not having done so the respondent authorities have acted in breach of the principles of natural justice.
8. A report in the form of an affidavit has been filed by the respondents.
9. Mr. Chakraborty, learned Advocate appearing for the respondent CGST Authorities submits that the petitioner had been afforded an opportunity of hearing but the petitioner chose not to appear. He has also drawn attention of this court to a letter dated January 6, 2026 issued by the Dy. Commissioner of Revenue, WBGST (which is annexed to the Report) whereby the petitioner has

been instructed to file a petition before the proper officer and to appear in person or through any authorized representative to collect the seized documents in original and the seized CPU from the proper officer.

10. It is further submitted that the petitioner had in course of the adjudication proceedings, been given opportunity to access the CPU and the documents along with his authorized representatives.
11. Heard the learned Advocates appearing for the respective parties and considered the material on record.
12. It is not in dispute that the documents and the CPU that had been seized from the custody of the petitioner have not yet been returned to the petitioner.
13. In such view of the matter, the petitioner has been deprived of a fair opportunity to contest the adjudication proceedings inasmuch as the documents based on which the petitioner could have prepared the defence were not available to the petitioner. It is also clear that the petitioner has not got any meaningful opportunity of personal hearing.
14. There is sufficient force in the contention of the petitioner that without the documents and

records the petitioner would also not be in a position to prefer a proper appeal before the appellate authority.

15. In such view of the matter, and for the ends of justice, the order impugned dated December 18, 2024 passed by the proper officer under Section 74 of the said Act of 2017 should not be allowed to be given effect to.

16. Since, the petitioner has not got any meaningful opportunity of participating in the hearing before the proper officer, the order impugned shall be treated as an additional show cause notice. The petitioner shall not be entitled to file a composite reply to the show cause notice earlier issued to the petitioner as well as the additional show cause notice (i.e. the impugned order dated 18th December, 2024 in terms of this order) within a period of two weeks from the date when the petitioner receives the seized documents or copies thereof and the seized CPU.

17. The petitioner shall approach the proper officer by way of an appropriate application as indicated in the notice dated January 6, 2026 (Annexure R/10 at page 37) of the report in the form of an affidavit within a week from date. Upon the petitioner so approaching the proper officer

shall makeover the seized documents (or copies thereof) and the seized CPU to the petitioner within two days thereafter. The proper officer shall thereafter conclude the proceedings by passing appropriate orders upon affording an opportunity of hearing to the petitioner, in accordance with law. It is clarified that this court has not gone into the merits of the matter and all points are left open to the adjudicating authority.

18. The writ petition being WPA 7574 of 2025 stands disposed of with the above observations.
19. There will be no order as to costs.
20. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)