01.10.26
11 Ct. No.10
AGM

WPA 12125 of 2025

M/s. Shree Vinayak Industries
vs.
Assistant Commissioner of State Tax, Purulia Charge, & Ors.

Mr. Sandip Choraria.
Mr. Akash Chakraborty.
....for the petitioner

Mr. Prithu Dudhoria.
Ms. Sruti Datta.
....for the State-respondents

1. Affidavit of service filed in Court today be kept with the record.

2. The present petition has been filed challenging inter alia, the legality and validity of the adjudication order dated 10.02.2021 passed by the respondent No.1 and the appellate order dated 28th January, 2025 passed by the respondent no.3 under Section 107 of the West Bengal Goods and Services Tax Act(hereinafter referred to as the said 'WBGST Act') and the Central Goods and Services Tax Act, 2017(hereinafter referred to as the said 'CGST Act'), whereby the appeal of the petitioner has been dismissed on ground of limitation.

3. Learned counsel for the petitioner submits as follows;

i. That a show cause notice in Form DRC 01 No. ZD190121001970W dated 08.01.2021 has been

issued to the petitioner demanding tax, interest and penalty.

ii. That said notice has been uploaded on the GST portal under the tab 'Additional Notice and Orders'. Due to this, the petitioner did not get any actual intimation and hence could not respond to the show cause notice.

iii. That the petitioner came to know above the adjudication order dated 10.02.2021 only upon change of his accountant.

iv. That the petitioner preferred an appeal before the appellate authority under Section 107 of the said Act but the same has been dismissed solely on the ground of limitation, without considering the merits.

v. That the entire proceedings and the impugned order are contrary to law and have been passed in violation of principles of natural justice and without due compliance with the procedure prescribed under the said Act.

4. Learned counsel appearing for the State respondents opposed the writ petition and submitted since the petitioner has been granted ample opportunities to defend his case, the appeal has been rightly dismissed on limitation.

5. Having heard the parties and upon perusing the records made available this Court observes as follows;

i. The petitioner has been able to make a prima facie case.

ii. The fact that show cause notice has been only uploaded under the 'tab Additional Notice and Orders' and no separate intimation has been given therefore the petitioner has been unable to reply to the same. This constitutes a violation of natural justice.

6. Since the petitioners appeal has been dismissed by the appellate authority only on the ground of limitation and not on merits, considering the peculiar facts of the case, interference by this Court is warranted in ends of justice.

7. In view of the above this Court directs as follows:

a. The appeal order dated 28.02.2025 and the adjudication order dated 10.02.2021 and show cause notice dated 08.01.2021 are hereby quashed and set aside.

b. Respondent no. 1 is directed to issue fresh show cause notice on the petitioner within a period of two weeks from date. The

petitioner shall respond to the same by filing a detailed reply within two weeks thereafter.

c. Respondent no. 1 shall afford an opportunity of hearing to the petitioner and pass a fresh reasoned order in accordance with law within 12 weeks from date. Such decision shall be communicated to the petitioner within a week thereafter.

8. With the above observations and directions this writ petition stands disposed of.

9. Since no affidavit in opposition has been called for, the allegations contained in the writ petition are deemed to have been denied and not admitted.

10. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)