01.10.2026
Court No.10
DL/Item No.–**22**
[Milan]

WPA 17900 of 2026

RAHUL PAL
VS
STATE OF WEST BENGAL AND ORS.

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

....for the Petitioner

Mr. Bijitesh Mukherjee,
Ms. Manasi Mukherjee.

....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 *ex parte* adjudication order dated 13.09.2022 passed by the respondent No.3 under Section 73 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 dated 04.08.2022 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 in the show cause notice, in the personal hearing column mentioned as "N.A" and did not grant any opportunity of personal hearing to the petitioner which constitutes to be violation Section 75 (4) of the GST Act and also violation of the principles of natural justice.

iv. The petitioner relied on the judgment delivered by the Division Bench of this Hon'ble Court in Goutam Bhowmick vs. State of West Bengal & Ors. reported in [2024] 158 taxmann.com 399 (Calcutta) and submits that opportunity of personal hearing is mandatory before passing an adverse order.

v. The petitioner submits that after filing the wit petition on 04.08.2026, the respondents recovered Rs.1,12,716/- (12.22% of Disputed Tax) from the Electronic Credit Ledger of the petitioner.

vi. 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.

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

a. The adjudication order dated 13.09.2022, consequential notices are hereby quashed and set aside.

b. The petitioner is directed to file a reply to the show cause notice dated 05.08.2022 before the concerned authority within two weeks from date. Such reply shall be considered

within four weeks from the date of receipt of the reply by passing a fresh reasoned and speaking order in accordance with law upon affording an opportunity of hearing to the petitioner. Such decision shall be communicated to the petitioner within a week thereafter.

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

8. 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.

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

(Smita Das De, J.)