

13.01.2026
Item No.20 (DL)
Court No.551
AJ.

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

W.P.A. 17928 of 2025

**Rajkumar Dyeing & Printing Works Private Limited
-Vs-**

**Deputy Commissioner of State Tax,
Posta Bazar and Burtola Charge & Ors.**

Mr. Sandip Choraria,
Mr. Akash Chakraborty,
Mr. Rishav Manna.
.....for the petitioner.

Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal.
Mr. Debraj Sahu.
.....for the State.

1. Affidavit of service filed on behalf of the
petitioners be kept with the record.

2. This writ petition has been filed assailing an
order dated June 25, 2025 passed by the Appellate
Authority under Section 107 of the WBGST ACT,
2017/CGST Act, 2017 (in short 'the said Act of 2017')
whereby the petitioner's appeal has been dismissed.

3. Learned Advocate appearing on behalf of the
petitioner submits that the Appellate Authority has
dismissed the petitioner's appeal only on the ground of
delay without appreciating the fact that the petitioner
could not file the appeal before the Appellate Authority
within the stipulated time period inasmuch as the
petitioner missed notice of the adjudication order
which was uploaded on the relevant GST e-portal

under the “Additional Notices and Orders” Tab and not the main tab.

4. It is further submitted that the adjudication order which was impugned before the Appellate Authority was passed in abject derogation of principles of natural justice. It is next submitted that despite the statute itself mandating opportunity of hearing to be granted to a person against whom an adverse order is contemplated, the adjudicating authority did not afford an opportunity of personal hearing to the petitioner. It is submitted that, apart from that, since the notice of show cause had also been served on the petitioner only by way of uploading thereof on the GST e-portal under the same “Additional Notices and Orders” Tab, the petitioner did not get any opportunity to respond to the notice to show cause.

5. It is further submitted that the order passed by the adjudicating authority is wholly unreasoned. It is asserted that no basis has been furnished in the order for the ultimate conclusion that has been arrived at by the adjudicating authority. He seeks quashing of both the appellate as well as the adjudication orders.

6. In support of his submissions, the learned Advocate appearing for the petitioner relies on a co-ordinate Bench Judgement of this Court in the case of ***Sankar Agarwala -Vs- The Joint Commissioner of CGST and Central Excise (Appeal), Siliguri Appeal***

Commissionerate & Ors. (WPA 2116 of 2025)

decided on November 03, 2025.

7. Mr. Chakraborty, learned Advocate appearing for the respondent State GST Authorities submits that the appellate order has been validly passed. It is further submitted that the appellate order records that if the SMS history of the petitioner's phone number and the mail history of the Email ID are checked, it can be proved that apart from uploading the order a notification must also have been sent to the registered mobile number and the registered Email ID of the petitioner.

8. Learned Advocate for the petitioner however hands up to the Court a screen shot of the Email ID of the petitioner to demonstrate that no notification of the nature indicated by the Appellate Authority was ever sent to the petitioner. The same is retained with the records. A copy thereof has also been served upon Mr. Chakraborty learned Advocate for the State GST Authorities.

9. Heard learned Advocates appearing for the respective parties and considered the materials-on-record.

10. It is not in dispute that the petitioner has been served with the notice to show cause in respect of the adjudication proceedings and the adjudication order by way of uploading thereof on the GST e-portal

under the “Additional Notices and Orders” tab. Neither the Appellate Authority nor the Adjudicating Authority has indicated anywhere, apart from the assumption voiced in the appellate order impugned that notification through SMS and e-mail must have been issued to the petitioner, that such notification was indeed served.

11. The appellate order has not even reached a conclusion that the notification as spoken of in the said order was at all sent to the petitioner either through SMS or through e-mail. The order only speaks of a possibility.

12. It is also evident from the adjudication order that the same has been passed without affording an opportunity of personal hearing to the petitioner although Section 75(4) of the said Act of 2017 mandates that in the event an adverse order is contemplated, an opportunity of hearing shall be granted to the person chargeable with tax or penalty. It cannot be disputed that the adjudication order is indeed adverse to the petitioner.

13. Furthermore, the one and half page adjudication order does not offer any reason for the conclusion that the proper officer has ultimately reached.

14. **Sankar Agarwala (supra)** has considered a similar matter where the proper officer had passed an

adverse order upon issuance of a show cause notice but without affording an opportunity of personal hearing to the petitioner. In the said case, the coordinate Bench had been pleased to set aside both the appellate order as well as the adjudication order and had remanded the matter to the file of the proper officer for fresh adjudication upon affording the petitioner an opportunity to respond to the notice to show cause.

15. Having regard to the similarity of facts of the said case and the present case, this Court is also inclined to follow the same course. Since the petitioner has not got proper opportunity to respond to the notice to show cause and to participate in the adjudication proceedings, the appellate order impugned dated June 26, 2025 as well as the adjudication order dated April 26, 2024 stand set aside.

16. The petitioner shall have liberty to file reply to the notice to show cause within a period of two weeks from date. The Adjudicating Authority shall thereafter proceed to pass adjudication order upon considering the petitioner's reply and affording the petitioner an opportunity of personal hearing. In the event, the petitioner fails to submit reply to the show cause notice within the time indicated hereinabove, this order shall stand automatically recalled and the

writ petition shall stand dismissed. The Adjudicating Authority shall be entitled to conclude the adjudication proceedings expeditiously without granting any unnecessary adjournment to the petitioner.

17. It is clarified that the petitioner shall not be entitled to challenge or object to the adjudication proceedings that shall be conducted and the adjudication order that shall be passed in terms of this order on the ground of limitation unless the petitioner could have legally challenged the same at the time when the notice to show cause was initially issued.

18. WPA 17928 of 2025 stands disposed of.

19. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)