IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:
THE HON'BLE JUSTICE OM NARAYAN RAI

WPA 19924 of 2025

Maya Store &Anr.
vs.
The Union of India&Ors.

For the Petitioners : Mr. Himangshu Kumar Ray, Adv.
Mr. SubhasisPodder, Adv.
Ms. Shiwani Shaw, Adv.
Mr. GauravChakraborty, Adv.

For the Respondent Nos. 2 to 4: Mr.Uday Shankar Bhattacharjee, Adv.
Mr. A. Rajyashree, Adv.

For the Union of India :Mr. AnindyaSundar Das, Adv.

Hearing Concluded on : 23.02.2026

Judgment on : 23.02.2026

Om Narayan Rai, J.:-

1. This writ petition assails an order in original dated December 14, 2023 (for the tax period July 1, 2017 to March 31, 2018) passed by the Proper Officer under Section 73 of the WBGST Act, 2017/CGST Act, 2017 (hereafter the 'said Act, of 2017').

2. It is the petitioners' case that the order in original has been passed without providing any opportunity of hearing to the petitioner although the order has adverse consequences on the petitioners.

3. In such view of the matter, a report in the form of affidavit was called for, from the respondent CGST Authorities. Such report has been filed by Mr.Bhattacharjee in court today. The same is taken on record.

4. The said report reveals that no physical letter calling upon the petitioners for personal hearing was ever given to the petitioners. The report however records that the petitioners were given a date of personal hearing *"online through ACES-GST Application available in CITRIX APPSTORE"*.

5. The report further states that from June, 2025 onwards the aforesaid application has been withdrawn and as such there is no record or proof or screenshot of any such online notice having been given to the petitioner.

6. In such view of the matter, there is nothing before this court to come to the definite conclusion that any notice was indeed served upon the petitioners thereby affording them an opportunity of hearing.

7. In terms of the provisions of Section 75(4) of the said Act of 2017, if an order having adverse consequence is contemplated, grant of an opportunity of hearing is mandatory.

8. Since it has not been proved before this Court, to any decree of satisfaction, that the petitioners have been afforded an opportunity of hearing prior to the impugned decision being taken, therefore the said decision falls foul of the principles of natural justice as well as the provisions of Section 75(4) of the said Act of 2017 which grant statutory recognition to such principles.

9. On such ground alone, the adjudication order dated December 14, 2023 stands set aside. The matter is remitted to the file of the Proper Officer for fresh adjudication. The petitioner's shall have two weeks' time from date to file their reply(ies) to the notice to show cause already issued to the petitioners. The Proper Officer shall thereafter proceed to pass appropriate orders in accordance with law upon taking into consideration the reply filed by the petitioners, if any.

10. It is made clear that if the petitioners' do not file any reply within the aforesaid period of two weeks, the petitioners' right to file reply to the notice to show cause shall stand closed. Needless to mention that the petitioners shall be granted an opportunity of hearing in terms of the provisions of Section 75(4) if any adverse orders is contemplated against the petitioners.

11. It is clarified that this court has not gone into the merits of the petitioner's case and all points are left open to be decided by the adjudicating authority in accordance with law.

12. The petitioner shall not be entitled to question the adjudication proceedings conducted by the Proper Officer in terms of this order on the ground of limitation unless such ground was available to the petitioner at the time when the notice to show cause was issued to the petitioner.

13. WPA 19924 of 2025 stands disposed of with the above observations. There shall be no order as to costs.

14. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)

(Samar)