IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

23.03.2026
Sl. No.30
tkm

W. P. A. 405 of 2026

[Kajari Bhadra-Vs- Assistnt Commissioner of Revenue, Cooch Behar Charge, Cooch Behar & Anr.]

Mr. Boudhayan Bhattacharyya
Ms. S Bansal
Ms. Keya Kundu
Ms. Chayna Kumary
Mr. A Bhattacharya
… … for the petitioner

Mr. Joyjit Choudhury
Ms. Rima Sarkar
… for the State
Mr. Ratan Banik
Mr. Biswhwaraj Agarwal
… for respondent nos. 3 & 5

1. The affidavit of service is taken on record.
2. The Petitioner has preferred the present writ petition being aggrieved by the ex parte adjudication order dated 15.12.2023 passed by the Assistant Commissioner of Revenue, Cooch Behar, whereby the said authority confirmed the demand of tax, interest, and penalty as proposed in the show cause notice dated 26.09.2023.
3. The case of the respondent authority is that the Petitioner had filed Nil returns in Form GSTR-3B for the period from 01.07.2017 to 31.01.2018, whereas the Petitioner's Form 26AS for the same period reflected outward taxable supplies amounting to Rs. 161.91

lakhs. On the basis of such discrepancy, it was alleged that the Petitioner had suppressed turnover and failed to discharge the corresponding tax liability.

4. Based on the aforesaid allegation, a show cause notice dated 26.09.2023 in Form DRC-01 under Section 73(5) of the WBGST Act read with the CGST Act, 2017 was issued. Admittedly, the Petitioner did not file any reply to the said show cause notice, nor were any supporting documents furnished before the adjudicating authority. Consequently, the respondent proceeded to pass the impugned ex parte adjudication order dated 15.12.2023.

5. Learned counsel for the Petitioner submits that the show cause notice itself is defective, as the Petitioner was not granted an opportunity of personal hearing as contemplated under Section 75(4) of the Act.

6. Learned counsel for the Petitioner has handed over a copy of a judgment passed by a Co-ordinate Bench of this Court in WPA 410 of 2025 (*Anup Jindal vs. Assistant Commissioner of Revenue, Siliguri Charge & Ors.*), wherein this Court, by order dated 03.03.2025, held that a show cause notice

which does not provide a proper opportunity of hearing to the petitioner is defective, and that it is incumbent upon the authority concerned to grant an opportunity of personal hearing, enabling the petitioner to produce books of accounts and explain the issues. No such opportunity was provided by the tax authorities in the present case.

7. Applying the ratio of the aforesaid judgment, this Court finds that the show cause notice dated 26.09.2023 did not provide any opportunity of personal hearing to the Petitioner. The same is contrary to Section 75(4) of the Act and is in violation of the principles of natural justice.

8. In view of the above, the impugned adjudication order dated 15.12.2023 and the show cause notice dated 26.09.2023 are hereby set aside.

9. The adjudicating authority is directed to issue a fresh show cause notice and thereafter pass a reasoned order strictly in accordance with law, after affording an opportunity of hearing to the Petitioner.

10. With the above directions, the present writ petition stands disposed of.

11. Since no affidavit-in-opposition has been called for, the allegations made in the writ petition shall be deemed to have been denied by the respondents.

(Gaurang Kanth, J.)