IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

24.03.2026
Sl. No.34
tkm

W. P. A. 423 of 2026

[Ashish Infratech Pvt. Ltd. -Vs- Assistant Commissioner of Tax, West Bengal State Tax, Siliguri Charge & Ors.]

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

Mr. Dilip Kr. Agarwal
Mr. Biswaraj Agarwal
… for respondent nos. 3 & 5

Mr. Pritom Das
Ms. Rima Sarkar
… for the State

1. The affidavit of service is taken on record.

2. The petitioner has preferred the present writ petition challenging the order dated 16.04.2024 passed by the Assistant Commissioner of Revenue, Commercial Tax, SGST Siliguri Charge, Siliguri under section 73(9) of the Act.

3. It appears from the record that on noticing discrepancy between the payment received by the petitioner against outward supply and the outward supply declared in returns (GSTR-3B) for the financial year 2018-2019 and intimation in the Form DRC01A was issued to the petitioner.

4. It is the case of the petitioner that during the financial year 2018-2019, the petitioner duly maintained its books of accounts and filed the requisite statutory returns including Form GSTR-1 and Form GSTR-3B and subsequently filed the Annual Report in Form GSTR-9 on June 30, 2023 after proper reconciliation of accounts. Notwithstanding the fact the said annual return was available on the GST portal, the respondent authorities initiated proceedings solely on the basis of an alleged mismatch between Form GSTR-3B and Form 26AS without verifying the nature of the transactions or considering the annual return already on record and ultimately proceeded to pass an ex parte order of adjudication under Section 73 without granting the personal hearing sought by the petitioner.

5. It is the contention of the respondents that a show cause notice dated 27.12.2023 under Section 73(1) was issued. The petitioner submitted a reply dated 30.01.2024 wherein he prayed for adjournment. However, the petitioner did not avail the opportunity to appear thereafter. The adjudicating authority upon due consideration of the reply

submitted by the petitioner, proceeded to pass the impugned order dated 16.04.2024 under section 73(9) of the Act.

6. Learned counsel for the petitioner submits that the impugned order suffers from violation of the principles of natural justice on the ground that no personal hearing was granted.

7. Learned counsel for the respondent submits that the petitioner has slept over his rights for more than two years and has not taken any affirmative steps to file an appeal nor has he made any communication with the department. He further points out that the petitioner has woken up only after receiving a notice dated 28.02.2026 and has filed the present petition thereafter.

8. This court has heard the arguments advanced by the parties and perused the materials on record.

9. This court finds that the petitioner was put on notice and had in fact submitted a reply to the said show cause notice which has been taken into consideration by the adjudicating authority while passing the impugned order.

10. In the facts of the present case it does not appear that there has been any violation of

the principles of natural justice particularly when an opportunity was granted to the petitioner to appear in person and he chose not to avail of the same. Be that as it may, the impugned order is admittedly appealable under the statutory scheme of the Act which provides an efficacious alternative remedy. It is well-settled that were such an alternative remedy is available, the writ petition ought not to be entertained unless exceptional circumstances are made out.

11. In the present case no such exceptional circumstances have been demonstrated warranting interference by this court. Rather the petitioner has slept over the matter from the passing of the impugned order dated 16.04.2024 till March, 2026 before filing this present writ petition.

12. Accordingly, the present petition is dismissed.

13. However, the petitioner is at liberty to file appropriate proceedings in accordance with law, if so advised.

(Gaurang Kanth, J.)