**IN THE HIGH COURT AT CALCUTTA**

**(Constitutional Writ Jurisdiction)**

**ORIGINAL SIDE**

**Present:**

**The Hon'ble Justice MD. SHABBAR RASHIDI**

**WPO/214/2021**

**DUROPLY INDUSTRIES LIMITED AND ANR**
**VS**
**PRINCIPAL COMMISSIONER OF INCOME TAX-2 KOLKATA AND ORS**

For the petitioners – Mr. Abhratosh Majumder, Sr. Adv.
Mr. Arvind Agarwal, Adv.
Mr. A. Majumdar, Adv.
Mr. F. Ghaffar, Adv.

For the respondents – Mr. Soumen Bhattacharjee, Adv.

Heard On : 06.10.2026

Judgment On : 06.10.2026

Uploaded On : 07.10.2026

**Md. Shabbar Rashidi, J.:**

1. The instant writ petition has been filed by the petitioners challenging the order of final assessment dated March 18, 2021, passed by the respondent No. 2.

2. By the impugned assessment order, the petitioners' tax was finalised by the competent authority.

3. The petitioner has prayed for setting aside of the final assessment order passed by the respondents. The direction has been sought in the writ petition to adjudicate afresh and pass an appropriate assessment order.

4. It is submitted by learned Senior Advocate appearing for the petitioner that the alleged assessment order was passed by the respondents without affording the petitioner an opportunity of hearing.

5. Learned Senior Advocate for the petitioner also submits that the petitioner received a draft assessment order and a notice to show cause. The petitioner received such show cause as well as the draft assessment. It was not indicated in the notice to show cause that the petitioner shall submit his response to the draft assessment within a prescribed time, failing which final assessment will be passed. It is further submitted by the learned senior Advocate that an adjournment was sought by the petitioner. It was duly uploaded into the portal. However, final assessment order was passed by the assessing authority without taking into consideration the prayer of the petitioner for an adjournment.

6. Not only that, the learned Senior Advocate further submits, the final assessment order also noted that the petitioner did not file any response to the draft assessment. He submits that the such an order passed in clear violation of the principle of natural justice should be set aside.

7. The learned Advocate appearing for the Income Tax Authority contended that there was no adjournment sought by the petitioner before the learned Assessing authority at the time of passing the final assessment order.

8. The records reveal that a draft assessment order was passed by the assessing authority and was served upon the petitioner on 9th March, 2021 at 12:51 P.M. The said draft assessment was served upon the petitioner with a notice to show cause directing the petitioner to show cause why the assessment should not be completed as per the draft assessment order communicated to the writ petitioner. In response to said show cause, the petitioner filed an adjournment petition on March 11, 2021. Learned Senior Advocate for the petitioner referred to confirmation on submission of seeking adjournment request on pages 108 and 109 generated from the portal. On March 18, 2021, the final assessment order was passed by the assessing authority which was finalised on the basis of the draft assessment order.

9. In Para 2.1 of such assessment order it was noted that as follows:

> *"A show cause notice alongwith draft assessment order was issued on 09-03-2021 whereby date of compliance was fixed on 11-03-2021. This notice has been duly delivered through e-mail on 09-03-2021 at 12.51 PM. But till date assessee has not filed any response in compliance to above show cause. Hence, assessment is completed as under."*

10. Such noting in the impugned assessment order and the notice to show cause was served upon the petitioner on March 9, 2021 fixing a date for compliance on March 11, 2021.

11. The notice to show cause was duly served upon the petitioner on March, 9, 2021 on 12:21 P.M. by an electronic e-mail.

12. In such circumstance the learned assessing officer proceeded to finalised assessment of the tax liability of the writ petitioner.

13. However, from the petition for adjournment filed on behalf of the writ petitioner, it appears that the writ petitioner sought for an adjournment for 15 days.

14. The said application was duly uploaded by the writ petitioner in the portal of the Income tax. The confirmation on submission of seeking adjournment request was also generated from the portal which says that an application by the writ petitioner was filed on March 11, 2021 at 4:05 P.M. The portal also disclosed that an application for adjournment was filed by the petitioner on March 11, 2021. The status/action was noted in the portal as open and the adjournment sought for up to March 25, 2021.

15. Therefore, in the facts and circumstances, it appears that there was an adjournment petition filed on behalf of the writ petitioner on March 11, 2021 which was duly uploaded in the portal of the Income tax.

16. The petitioner has also placed another communication generated from the CPGRAM, the petitioner was communicated by the income tax authority to the following :

> "*In response to you CPGRAMs petition, the System has informed that "...Adjournment request was raised by assessee on 11th March, 2021 and inwarded in ITBA on 29th April, 2021 as ITBA supported inwarding adjournment entries from the same date...".*

17. Therefore, from aforesaid communication it is evident that the adjournment petition filed on behalf of the writ petitioner was not placed before the assessing authority for consideration and the assessing authority passed the final assessment order without having the opportunity to consider such application. The petitioner after submitting his adjournment application on March 11, 2021 and having generated the reports from the portal of the income tax that such application was duly submitted, was under the impression that the matter would be taken up on or after March 25, 2021 as prayed by him.

18. In the aforesaid facts and circumstances of the case, it is evident that the adjournment petition was not taken into consideration at the time of passing the final assessment order and the writ petitioner was not provided with the opportunity of being heard on the assessment of his tax liabilities as explained to him by the notice to show cause.

19. Therefore, the final assessment order passed on March, 18, 2021 passed by the Assessing authority is set aside and matter is remitted back to the assessing authority. The assessing authority will pass appropriate assessment order upon providing the writ petitioner an opportunity of placing his case.

20. In doing so, the writ petitioner shall be at liberty to file his reply to the show cause as asked by the assessment officer by its order dated March 9, 2021. The writ petitioner shall be heard by the assessing authority.

21. Learned Senior Advocate appearing for the writ petitioner has submitted that the writ petitioner shall raise the point of limitation at the time of hearing and passing of the appropriate assessment order.

22. The entire exercise shall be concluded by the assessing authority within a period of 12(twelve) weeks from date.

23. With the aforesaid observations and directions, the instant writ petition being WPO 214 of 2021 is, accordingly, disposed of.

24. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

**(MD. SHABBAR RASHIDI, J.)**

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