

WPA 6436 of 2026

Arun Kumar Dutta
vs.
The State of West Bengal & Ors.

Mr. Himangshu Kumar Ray.
Mr. Subhasis Podder.
Ms. Shiwani Shaw.
Mr. Rantu Bose.

....for the petitioner

Mr. Bijitesh Mukherjee.
Ms. Manasi Mukherjee.

....for the State-respondents

1. Affidavit of service filed in Court today be kept with the record.

2. The present writ petition has been filed challenging inter alia, the legality and validity of the adjudication order dated 23.08.2024 passed by the respondent No. 4 and the appellate order dated 28.01.2026 passed by the respondent no. 3 under Section 107 of the West Bengal Goods and Services Tax Act(hereinafter referred to as the said 'WBGST Act') and the Central Goods and Services Tax Act, 2017(hereinafter referred to as the said 'CGST Act'), whereby the appeal of the petitioner has been dismissed on ground of limitation.

3. Learned counsel for the petitioner submits as follows;

i. That a show cause notice in Form DRC 01 dated 16.05.2024 has been issued to the petitioner demanding tax, interest and penalty.

ii. That said notice has been uploaded on the GST portal under the tab 'Additional Notice and Orders'.

iii. The petitioner came to know the adjudication order dated 23.08.2024 only upon receiving a phone call from the respondent no. 4 on the last week of January 2026.

iv. That the petitioner preferred an appeal before the appellate authority under Section 107 of the said Act but the same has been dismissed solely on the ground of limitation, without considering the merits.

v. That the entire proceedings and the impugned order are contrary to law and have been passed in violation of principles of natural justice and without due compliance with the procedure prescribed under the said Act.

4. Learned counsel appearing for the State respondents vehemently opposes the submissions made by the petitioner and submits that it is an admitted fact that hard copies of the show cause notice was already received by the petitioner, which is evident from the letter dated 23rd August, 2024 being Annexure p/4 at page 61 of the writ petition. It is further submitted that the petitioner has been granted ample opportunities to defend

his case, the appeal has been rightly dismissed on limitation.

5. Having heard the parties and upon perusing the records made available this Court observes as follows;

- i. The petitioner has been able to make out a prima facie case.
- ii. The fact that show cause notice and adjudication order had been uploaded only under the 'tab Additional Notice and Orders' and no separate intimation had been given, therefore, the petitioner was unable to reply to the same. This constitutes a violation of natural justice.

6. Since the petitioner's appeal has been dismissed by the appellate authority only on the ground of limitation and not on merits, considering the peculiar facts of the case, interference by this Court is warranted in ends of justice.

7. In view of the above this Court directs as follows:

- a. The order passed by the Appellate Authority dated 28.01.2026 is hereby quashed and set aside.
- b. Respondent no. 3 is directed to revisit the issue by admitting the appeal preferred by

the petitioner and consider the appeal on merits.

- c. Respondent no. 3 shall afford an opportunity of hearing to the petitioner and pass a fresh reasoned order in accordance with law within 12 weeks from date. Such decision shall be communicated to the petitioner within a week thereafter.

8. With the above observations and directions this writ petition stands disposed of.

9. Since no affidavit in opposition has been called for, the allegations contained in the writ petition are deemed to have been denied and not admitted.

10. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)