

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

WPA 1633 of 2026

Babita Sharma
Versus
Assistant Commissioner of Revenue, Siliguri & Ors.

Mr. Boudhayan Bhattacharyya
Ms. Stuti Bansal
Ms. Keya Kundu

... For the petitioner

Mr. Jagriti Mishra, Ld. AAAG
Ms. Radhika Agarwal

... For the State

Mr. Ratan Banik
Mr. Bishwaraj Agarwal

.... For the respondent Nos. 4, 6

1. The present writ petition has been filed challenging the order dated 11th December, 2023 passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act).
2. Ms. Bansal, learned advocate appearing for the petitioner has, however, drawn attention of this Court to summary of the show-cause notice issued in form GSTDRC 01 dated 27th September, 2023 and would submit that the adjudication was made without affording opportunity of hearing to the petitioner. According to her, though, the proper officer was under an obligation having regard to the provisions contained in Section 75(4) of the said Act to provide an opportunity of hearing, irrespective of the fact whether

the petitioner prays for the same since, the show-cause contemplated an adverse decision, the same was ignored.

3. Mr. Mishra, learned AAAG appears for the State GST authorities and Mr. Banik learned advocate appears for the CGST authorities.
4. Mr. Mishra does not dispute the fact that in the instant case, the date and time of personal hearing was not provided to the petitioner.
5. Having heard the learned advocates appearing for the respective parties and having considered the materials on record, I find that when a show-cause is issued which contemplated an adverse decision, in terms of Section 75(4) of the said Act irrespective of the fact whether any request is made, an opportunity of hearing is required to be afforded to the person chargeable with tax or penalty. In the instant case, I find that the petitioner was not made aware of the date and time and venue of personal hearing. Thus, there appears to be infraction of the provisions of Section 75(4) of the said Act.
6. At the same time this Court cannot ignore the fact that a determination had already been made in the year 2023. This petitioner has been filed only on 10th August, 2026. Accordingly, the petitioner should be put to terms. The petitioner shall deposit 10 per cent of the Tax in dispute within four weeks from date. If such deposit is made, the proper officer shall

adjudicate the show cause afresh in accordance with law. The petitioner shall be at liberty to file a response to the show-cause within a period of a week from the date of deposit. If such response is filed or if no response is filed, the proper officer having regard to the provisions contained in Section 75(4) of the said Act shall hear out and dispose of the show-cause in accordance with law upon affording opportunity of hearing to the petitioner. As a sequel, the order impugned shall stand set aside.

7. It is expected that decision in this regard shall be taken by the proper officer within a period of eight weeks from the date of affording personal hearing to the petitioner.
8. It is made clear if no deposit as directed is made, the petitioner shall not be entitled to the benefit of this order and the writ petition shall stand dismissed which shall have the effect of revival of the order impugned.
9. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)