

WPA 9627 of 2024

Tahir Khan
vs.
Assistant Commissioner of Revenue/WBGST,
Government of West Bengal & Ors.

Mr. Subhasis Podder.

....for the petitioner

Mr. Prithu Dudhuria.
Ms. Shruti Dutta.

....for the State-respondents

1. The present writ petition has been filed challenging inter alia, the legality and validity of the adjudication order dated 07.12.2023 passed by the respondent No. 1 and issue demand.

2. Learned counsel for the petitioner submits as follows;

i. That a show cause notice in Form DRC 01 dated 09.08.2023 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 about the adjudication order dated 7.12.2023 after the order was passed.

iv. There was no personal hearing afforded to your petitioner, as the same is evident from Show Cause Notice dated 9.8.2023. The column of

preliminary hearing shows 'NA' at page 23 of the writ petition.

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.

3. 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 order dated 07.12.2023 being Annexure p/3 at page 28 of the writ petition. It is further submitted that the petitioner has been granted ample opportunities to defend his case.

4. 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.

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

- a. The order in original passed by the respondent no. 1 dated 07.12.2023 is hereby quashed and set aside.
- b. Respondent no. 1 shall afford an opportunity of personal hearing to the petitioner and pass a fresh reasoned and speaking order in accordance with law within 12 weeks from date. Such decision shall be communicated to the petitioner within a week thereafter.

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

7. 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.

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

(Smita Das De, J.)