

M/L 292
01.10.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 21322 of 2024

M/s R G Solutions
Versus
Union of India & Ors.

Mr. Promit Majumdar
Ms. Uzma Ali
... For the petitioner.

Mr. Prabir Bhowmik
Ms. Tapasi Sinha Palit
... For Union of India.

Mr. Kaushik Dey
Mr. Kaustuv Maiti
... For the respondent nos. 2 and 3

1. An order of remand dated 26th April, 2024 passed by the respondent no.3 has been challenged on the ground that though, the appellate authority had come to a finding that the demand of service tax had been made merely on the basis of the data received from the income tax department and despite holding the show cause to be vague, the same has been remanded for readjudication.
2. Mr. Majumdar, learned advocate appearing on behalf of the petitioner would submit that only on the ground of non-speaking order, the matter was remanded despite the fact that the appellate authority had come to the specific findings that the show cause notice itself did not provide for any specific charge and was vague. Since, the appellate authority had held that the show

cause is vague, the subsequent direction to remand the matter is contrary to the aforesaid observation and suffers from irregularity in procedure adopted. As such, this Court may be pleased to admit the writ petition and pending hearing of this writ petition stay the order dated 26th April, 2024 directing remand of the matter.

3. Mr. Dey, learned advocate appearing for the respondents would submit that the order is appealable and as such this Hon'ble Court ought not to entertain the present writ petition.
4. Having heard the learned advocates for the parties, I am of the view that the matter may require further consideration.
5. Considering the *prima facie* case made out as regards the observation of the appellate authority that the allegation in the show cause notice are non-specific and vague, I am of the view that the petitioner is entitled to a limited protection till the next date of hearing.
6. As such, by keeping the point of maintainability as raised by Mr. Dey open, I restrain the respondents from proceeding further on the basis of the order dated 26th April, 2024, till the next date of hearing.
7. List this matter in the daily supplementary list on 12th November, 2024 for further consideration.

(Raja Basu Chowdhury, J.)

