

WPA 23979 of 2025

Rajesh Kumar Jaiswal
Versus
State of West Bengal & Ors.

Mr. Suvranil Saha
..... For the petitioner.
Mr. Suryaneel Das
Mr. Bijitesh Mukherjee
Ms. Manasi Mukherjee
..... for the State

1. Although the matter has appeared under the heading “Extension of Interim Order” and the interim order is subsisting, by consent of the parties, the matter is taken up for consideration for final hearing.
2. Challenging a show-cause notice in form DRC 01 dated 12th September, 2025 for the tax period of April, 2019 to March, 2022 under Section 74 of the WBGST/CGST Act, 2017 (hereinafter referred to as the said Act) the instant writ petition has been filed. According to the petitioner, prior to issuance of the above show- cause, a pre-show-cause notice in form DRC 01A was issued on 23rd September, 2024, inter alia, on the ground that the petitioner who had been carrying on business activities under the trade name of M/s R.K. Cement Supply Agency had dealt with one M/s Pradhan Enterprise in respect of the financial year 2021-22 by way of sales made to the said agency.

However, the registration of such agency had been suo moto cancelled on 30th March, 2020. There are other allegations with regard to the petitioner dealing with other third parties whose registration had been suo moto cancelled in the year 2019. The petitioner would complain that the petitioner had duly responded to the allegations by filing a response. Notwithstanding, receipt of such response, the authorities had proceeded to issue the show-cause in DRC 01. According to him, the show-cause has been issued in utter violation of the settled law and accordingly the show-cause cannot be sustained.

3. In the peculiar facts, the petitioner had approached this Court by filing the above writ petition. When the writ petition came up for consideration, a Co-ordinate Bench of this Court while admitting the writ petition, issued directions for affidavits. The parties have since exchanged their affidavits.
4. Having heard the learned advocates appearing for the respective parties, I find that it is not the case of the petitioner that the issue raised by the petitioner before this Court cannot be appropriately decided by the proper officer under Section 74 of the WBGST/CGST Act, 2017 (hereinafter referred to as the “said Act”). I find that the scheme of the said Act provides for multiple layers of opportunity to a tax payer to

clarify its position and respond to a show-cause including opportunity of personal hearing before any decision is reached by the adjudicating authority. The matter is only at the show-cause stage. No jurisdictional issue has been raised. The show-cause is a detailed one and, the same does not appear to be vague or non-specific, adjudication is yet to take place.

5. This apart, since the provisions of Section 74 has been invoked, in my view, it shall be appropriate to permit the adjudicating officer to decide on the cause.
6. Independent of the above, the petitioner is not remediless. An adjudication order passed under Section 74 of the said Act is appealable under Section 107 of the said Act. Even a determination made under Section 107 of the said Act is further appealable before an appellate tribunal, which the parties would jointly submit has not only been constituted but has also become functional.
7. In light of the above, in my view, it shall only be appropriate to direct the proper officer to hear out the show-cause in accordance with law. If, the petitioner has not responded to the show-cause, the petitioner shall be at liberty to respond to the same within a period of 2 weeks from date. It is made clear that if, the response is filed by the petitioner or in the event, no response is filed, the proper officer having regard to the provisions

contained in Section 75(4) of the said Act shall decide the cause upon affording an opportunity of hearing since, the show-cause contemplates passing of an adverse order.

8. Considering the fact that the matter was pending for long, it is expected that the decision in this regard shall be taken by the proper officer on an expeditious basis preferably within a period of 12 weeks from the date of communication of this order, without granting any unnecessary adjournment.
9. It is made clear that the points raised in the writ petition, shall be permitted to be raised by the petitioner before the proper officer and if, such points are raised, he shall decide and adjudicate upon the same in accordance with law.

(Raja Basu Chowdhury, J.)