

03.7.2025
Sl. No. 4
Court No.4
Ali

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

WPA 1219 of 2025

Shri Rajesh Kumar Sarda
Vs.
Union of India & Ors.

Ms. Rima Sarkar,
Ms. Sidhi Sethia,
Ms. Suparna Paul

.... for the Petitioner.

Mr. Dilip Kumar Agarwal,
Mr. Biswaraj Agarwal

I ...for the State.

Affidavit-of-service filed by the learned
advocate on behalf of the petitioner be taken on
record.

Heard learned advocates appearing for the
respective parties.

The petitioner has challenged three notices; the
first being an intimation notice dated 17th March,
2023 issued by the Joint Director DGGI, Siliguri Zonal
Unit Siliguri; the second being a show cause notice
dated 31st March, 2023 issued by the DGGI, Siliguri
Zonal Unit Siliguri and the third being a summary
show cause notice dated 1st August, 2024 issued by

the Assistant Director Siliguri Zonal Unit West Bengal.

Ms. Rima Sarkar, learned advocate appearing for the petitioner submits that all the three notices suffer from patent illegalities.

She submits that the notices are inconsistent inasmuch as while the intimation notice refers to the period between April 2018 to November 2022, the show cause notice refers to the period July 2017 to April 2021 and the third notice i.e. the summary show cause notice refers to periods from April 2018 to March 2022.

She submits that firstly the proceeding initiated in respect of financial year 2017-2018 would be time-barred and secondly since all the said notices are consolidated in nature as they refer to several financial years which have been clubbed together, the same cannot be sustained.

She submits that issuance of such notice would be against the very grain of Section 74 of the CGST Act, 2017. She then refers to a circular bearing No. 171/03/2022-GST dated July 6, 2022 issued by the Central Board of Indirect Tax and Customs and submits that a notice under Section 74 of the CGST Act, 2017 could not have been issued to an unregistered person. It is submitted that the petitioner is an individual and he owns a proprietorship firm as well. Ms. Sarkar submits that once notices of the nature impugned in the writ petition have been served upon the petitioner's firm, then by the same notice the petitioner could not have been

asked to show cause for the same alleged illegal act for which the firm has been alleged to be liable by the impugned notices.

Ms. Sarkar further submits that if at all a notice was required to be served to the petitioner for holding him personally liable the same could have been done under Section 122 (1)(A) of the CGST Act, 2017. She prays for quashing of all the three notices on the aforesaid grounds.

In support of her submissions that consolidated notices for several periods could not have been issued, she relies on the following judgements:

Veremax Technologies Service Ltd. V. Assistant Commissioner of Central Tax, Bengaluru reported in ***(2024) 167 Taxmann.com 332 (Karnataka)***;

Joint Commissioner (Intelligence & Enforcement) V. Lakshmi Mobile Accessories reported in ***(2025) 171 taxmann.com 214 (Kerala)***

Mr. Dilip Kumar Agarwal, learned advocate appearing for the respondents submits that the writ petition itself is not maintainable in as much as the petitioner has an alternative remedy of appeal. It is further submitted that the petitioner has been found to be involved in issuing fake invoices and that the petitioner has been operating seven (7) different firms and as such the impugned notices have been rightly issued. It is also submitted that an elaborate adjudication order has been passed running into several pages and as such the notices issued by the Department should not be interfered with.

He seeks time to place the respondents' stand on affidavit before any decision can be taken on this writ petition.

Having heard the learned advocate appearing on behalf of respective parties and having considered the material on record this Court is of the view that an opportunity to file affidavit-in-opposition must be afforded to the respondents.

Affidavit-in-opposition on behalf of respondents' may be filed within two weeks from date.

Since the proceedings are at the stage of intimation and show cause, the respondents should adhere to the time line for filing the affidavit-in-opposition.

The petitioner shall be at liberty to use affidavit-in-reply thereto within a week thereafter. It is clarified that in case need so arises the petitioner would be entitled to approach this Court praying for interim relief.

Point of maintainable will be kept open.

List this matter before the next available Bench immediately upon completion of the time fixed for exchange of affidavit.

(Om Narayan Rai, J.)