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IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 1940 of 2026

Sanjib Saha
Versus
The State of West Bengal & Ors.

Mr. Promit Majumder
Ms. Rinka Chakraborty
Mr. Samrat Acharya
... For the petitioner.

Mr. Kunaljit Bhattacharjee, Ld. AGP
Ms. Radhika Agarwal
... For the State.

1. Challenging the order dated 1st March, 2025, passed under Section 73(9) of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") in respect of the tax period April, 2018 to March, 2019, the instant writ petition has been filed.

2. Mr. Majumder, learned advocate appearing for the petitioner by drawing attention of this Court to the show cause notice dated 11th December, 2023, would submit that from the aforesaid document it would be clear that no personal hearing was offered to the petitioner as the column for providing date, time and venue of the personal hearing is kept blank. This apart, according to him, since the show cause notice and the order were uploaded on the portal under the "view additional notices and orders" tab and not under the "view notices and orders" tab, the petitioner could not respond to the show cause and also

could not challenge the order before the appellate authority. In the peculiar facts, the petitioner seeks interference.

3. Mr. Bhattacharjee, learned advocate appears for the State.

4. Having heard the learned advocates appearing for the respective parties and having considered the materials on record and the show cause notice, I find that the show cause notice does not provide for any date, time and venue as to when and where the personal hearing shall be provided. Noting has been placed on record before this Court to demonstrate that personal hearing was offered to the petitioner. This apart, the petitioner may have been deprived of the opportunity to file a response and challenge the order before the appellate authority by reasons of the show cause notice and the order being uploaded on the "view additional notices and orders" tab on the common portal. However, at the same time the fact that a determination has already been made cannot be ignored.

5. In the aforesaid facts, I am of the view that if the petitioner deposits 10 per cent of the amount of tax in dispute with the respondents within a period of six weeks from date, the petitioner shall be at liberty to file a response to the show cause within a week thereafter and in such event, the proper officer shall hear out and decide on the show cause afresh, upon giving an opportunity of hearing to the petitioner in accordance with the

provisions contained in Section 75(4) of the said Act. All points are, however, kept open to be decided by the proper officer.

6. As a sequel thereto, the order passed by the proper officer dated 1st March, 2024, stands set aside. Consequentially, the steps taken by the respondents to enforce the aforesaid order by way of invoice in Form GSTDRC 13 dated 10th July, 2026 also stands set aside.

7. It is, however, made clear if the deposit as directed is not made, the order impugned shall revive and the respondents shall be at liberty to enforce the original order in accordance with law.

8. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)