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

WPA 1937 of 2026

Ashok Kumar Periwal @ Ashok Periwal
Versus
The State of West Bengal & Ors.

Mr. Dhiraj Lakhotia
Ms. Radhika Agarwal
Ms. Paromita Chakraborty
Ms. Nikita Kundu
Ms. Neha Lama
... For the petitioner.

Mr. Jagriti Mishra, Ld AAAG
Mr. Ashoke Kumar Singhi
Ms. Somdutta Patra
... For the State.

1. Challenging the order passed under Section 73 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") dated 14th August, 2024, as also the appellate order passed under Section 107 of the said Act, dated 2nd April, 2026, rejecting the appeal on the ground of limitation, the instant writ petition has been filed.

2. Mr. Lakotia, learned advocate appearing for the petitioner has, however, drawn attention of this Court to the show cause notice issued in Form GSTDRC 01 dated 15th May, 2024 and would submit that the show-cause-cum-demand is confined to Rs.26,17,678/- and the final determination made by the respondent authorities is Rs.50,59,344/-. According to him, the proceedings also suffer from non-compliance of Section 75(4) of the said

Act, inasmuch as, the date of personal hearing precedes the date of filing the reply.

3. Mr. Mishra, learned Assistant Additional Advocate General appears on behalf of the State.

4. Having heard the learned advocates appearing for the respective parties and since the petitioner in the instant case has agreed to make deposit of a sum of Rs.10 lakhs with the respondents and noting that the order passed under Section 73 of the said Act has been issued in violation of the provisions of Section 75(7) of the said Act, inasmuch as, the determination made under Section 73 of the said Act exceeds the demand in the show cause, I am of the view it shall be prudent at this stage to remand the matter back to the adjudicating authority by treating the order passed by the respondents as a show-cause under Section 73(1) of the said Act.

5. The respondents shall be at liberty to issue additional show cause to support the same, provided the same is served on the petitioner within a period of four weeks from the date of deposit to be made by the petitioner in terms of the above order. Once, such additional show cause is uploaded on the common portal, the petitioner shall be at liberty to respond to the same by uploading the response on the common portal within two weeks thereafter.

6. Once such response is filed or in the alternative no such response is filed, the proper officer having regard to the provisions contained in Section 75(4) of the said Act

shall hear out and dispose of the proceedings in accordance with law upon giving an opportunity of hearing to the petitioner and by passing a reasoned order.

7. As a sequel thereto, the orders dated 14th August, 2024 and 2nd April, 2026 stand set aside. The order of attachment in Form GSTDRC 13 dated 27th July, 2026 also stands set aside. It is made clear if the petitioner does not comply with the direction for deposit, the impugned order would survive and be enforceable in accordance with law.

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

9. 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.)