JPD 89

S. Banerjee
AR (Ct.)
Judgment on 21.07.2026

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Hiranmay Bhattacharyya

WPA 1078 of 2026

M/s. B. Enterprise & Anr.
Versus
The State of West Bengal & Ors.

For the petitioners	:	Mr. Himangshu Kumar Ray Mr. Subhasis Podder Mr. Kanchan Singha Mr. Abhilash Mittal
For the opposite party	:	Mr. Jagriti Mishra, Ld. AAAG Ms. Mrinmayee Das
Heard on	:	21.07.2026
Judgement on	:	21.07.2026

Hiranmay Bhattacharyya, J.:

1. Affidavit-of-service filed in Court today be kept with the record.

2. The adjudication order dated April 12, 2024 passed by the respondent no. 4 under Section 73 of the West Bengal Goods and Services Tax Act, 2017 ('WBGST Act, 2017', for short) is under challenge in this writ petition.

3. Learned advocate appearing for the petitioners draws the attention of the Court to the show-cause notice dated December 14, 2023 and submits that though a time was fixed for submission of reply to the show-cause notice, but the date, time and venue of personal hearing was not mentioned therein. He further submits that a reminder letter to the show-cause notice was issued on March 2, 2024 fixing March 11, 2024 for submission of reply to the show-cause notice, but even in the said notice date, time and venue of personal hearing was not indicated. He submits that the order under Section 73(9) was passed on April 12,2024 without affording any opportunity of hearing to the petitioner. He further submits that the show-cause notice, the reminder letter as well as the order passed under Section 73(9) of the WBGST Act, 2017 were uploaded in the "Additional notices and orders Tab" instead of the "Normal Tab". He thus submits that the petitioner was not aware of the date fixed for giving reply to the show-cause notice. He further submits that upon being served with an intimation for payment of the liability against demand created under Section 73 of the WBGST Act, 2017 dated May 18, 2026, the petitioners for the first time came to know of the adjudication order passed under Section 73(9) of the WBGST Act, 2017. He submits that in the meantime the period for preferring an appeal, also stood expired. He submits that since the adjudication order under Section 73(9) of the WBGST Act, 2017 was passed without affording any opportunity of hearing, the petitioners have approached this Court under Article 226 of the Constitution of India.

4. Learned advocate appearing for the petitioners places reliance upon an order dated July 7, 2026 passed by a coordinate Bench in WPA 2425 of 2025 in the case of *Ashok Parakh, M/s. Ganapati Exports –Vs- The State of West Bengal & Ors.* in support of his contention that the adjudication order is liable to be set aside on the ground of violation of the principles of natural justice.

5. Heard Mr. Mishra, learned Assistant Additional Advocate General, on such submission. He submits that the show-cause notice, the reminder letter as well as the adjudication order were uploaded in the server and, therefore, there was sufficient compliance of the provisions of the statute and the petitioner cannot feign ignorance.

6. Heard the learned advocates for the parties and perused the materials placed.

7. Returns furnished under Section 39(1) of the WBGST Act, 2017 for the period 01.04.2018 to 31.03.2019 were examined and since certain discrepancies, according to the Revenue, were detected an intimation of liability was issued to the petitioner in Form DRC-01A dated November 8, 2023.

8. The show-cause notice dated December 14, 2023 was issued under Section 73 of the WBGST Act, 2017 on the ground that certain discrepancies were found in the returns for the tax period April, 2018 – March, 2019 calling upon the petitioner to show cause as to why the petitioner shall not be liable to reverse the ITC/pay the amount as indicated in the said notice. Though the summary of show-cause

notice specifically states that the reply is to be submitted on January 15, 2024, but against the columns under 'Date of personal hearing'; 'time of personal hearing' and 'venue where personal hearing will be held', it has been stated as 'NA'. The reminder letter dated March 2, 2024 also is silent about the date, time and venue of personal hearing.

9. Section 73(9) of the WBGST Act, 2017 states that the proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

10. On a bare reading of the said provision this Court finds that the amount of tax, interest and penalty due from a person shall be determined by issuing an order only after considering the representation, if any, made by the person chargeable with tax.

11. The petitioners allege that the show-cause notice as well as the reminder letter was uploaded in the "Additional notices and orders Tab" and not in the "Normal Tab".

12. It is not in dispute that the show cause notice, reminder letter and the adjudication order was uploaded in the "Additional notices and orders Tab" and not the "Normal Tab".

13. The issue whether uploading of notices and orders in the 'Additional notices and orders' can be said to be an effective communication, fell for consideration before the Hon'ble Division Bench in the case of *Ram Kumar Sinhal –Vs.- State of West Bengal &*

Ors., reported at 2025 SCC OnLine Cal 6279. The Hon'ble Division Bench specifically held that notices and orders uploaded in the 'Additional notices and orders' tab, as opposed to the "Normal Tab" could not constitute a proper communication or uploading as contemplated under Section 73 of the WBGST Act read with the relevant rules.

14. That apart, in the show-cause notice and the reminder letter the date, time and venue of personal hearing were not indicated. The adjudication order was passed ex parte and without affording any opportunity of hearing to the petitioners.

15. To the mind of this Court, the adjudication order has been passed without complying with the provisions laid down under Section 73(9) of the WBGST Act, 2017.

16. This Court accordingly holds that, there was no effective communication of the show-cause notice, the reminder letter and the order of adjudication and the petitioners were also deprived of the opportunity to give reply to the show-cause notice. Thus, an opportunity should be given to the petitioner to submit a reply to the show-cause notice with a specified time frame.

17. For all the reasons as aforesaid, this Court is inclined to interfere with the ex parte adjudication order.

18. Accordingly, the order of adjudication dated April 12, 2024, passed by the respondent no. 4, is set aside. The petitioners are

granted liberty to file a reply to the show-cause notice within 14 working days from receipt of the server copy of this order.

19. The respondent no. 4 shall fix a date of hearing and shall decide the issue raised in the show-cause notice afresh and by passing a reasoned order as expeditiously as possible.

20. It is, however, made clear that the order of adjudication has been interfered with only on the ground that the same was passed in violation of the principles of natural justice and all points are kept open to be decided by the adjudicating authority in accordance with law.

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

(Hiranmay Bhattacharyya, J.)