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02.09.2026
S.Seal
Ct.9.

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

WPA 991 of 2026

M/s. Garg Enterprises
Versus
Additional Commissioner, Central
Goods and Services Tax and Central
Excise, Siliguri Commissionerate & Anr.

Mr. Jatin Harjai
Mr. Abhilash Mittal
Ms. H. N. Pradhan
...For Petitioner

Mr. Ratan Banik
Mr. Biswaraj Agarwal
... For Respondents.

1. Affidavit in opposition filed in Court today be kept on record.

2. Challenging the order passed under Section 74 of the CGST/WBGST Act, 2017 (hereinafter referred to as 'the said Act'), for the tax period from January 2020 to November 2023, the instant writ petition has been filed.

3. The petitioner questions the above proceedings and the order on the following grounds:-

(a) That the pre-show cause notice issued in Form DRC 1A has not been signed by the proper officer/has invalid signature.

(b) That the show cause issued under Section 74 of the said Act in Form DRC 01, has been issued without considering the response to the pre show-cause.

(c) That the show cause notice issued in Form DRC01 is vague, non specific, no specific taxable event or essential ingredients to invoke Section 74 of the said Act has been disclosed.

(d) The show cause notice issued under Section 74 of the said Act deals with different periods which had been clubbed together, the same is not permissible in law.

(e) Though in terms of the show cause, the petitioner was required to be submit its response with the Additional Commissioner, Central Goods and Services Tax and Central Excise, Siliguri Commissionerate and despite the petitioner responding to such authority, the hearing took place before different authority. As such the authority who received the response is not the same who had heard the matter and had passed the order.

4. According to the learned advocate for the petitioner, the aforesaid would constitute not only an irregularity in procedure but a defect in jurisdiction as well. As such the order passed by the proper officer cannot be sustained. It is still further submitted that the order passed by the proper office was with a pre-determined notion as he did not take into consideration the objections raised by the petitioner.

5. The learned advocate for the petitioner would submit that though the petitioner has an alternative remedy, however, since the jurisdictional issue has been raised, the petitioner had approached this Court.

6. Having heard the learned advocates for the parties, I find that the order impugned has been passed on 27th March, 2026, the determination is not under Section 73 but is under Section 74 of the said Act which deals with fraud, willful misrepresentation and suspension. In this context it may be noted that previously the petitioner challenging the self-same show cause notices had approached this Court in WPA 11 of 2026, however, later sought to withdraw the same to urge all points in the reply to the show cause. By order dated 17th March, 2026, a Co-ordinate Bench of this Court, while permitting the petitioner to file its response to the show-cause though belatedly, also granted liberty to the proper officer to pass appropriate order in accordance with law. No liberty was however, reserved to approach this Court by bypassing the multi tiered adjudicatory process in the form of statutory remedy. In this backdrop, the matter is considered.

7. I find that the petitioner does not question the order on the ground that the same has not been properly signed by the proper officer or that the detailed show cause was improperly signed but questions the summary of the show cause notice in Form DRC01 as being not appropriately signed as would corroborate the statements made in the paragraph 1.9 of the petition.

8. On the above issue from the materials available on record, I find that the documents disclosed by the petitioner would demonstrate that the detailed show

cause is available on the file. Though the petitioner claims the same was not signed by the proper officer, I am of the view that at this stage, there is no scope for this Court to make such a determination in absence of the records being produced. Further the records of personal hearing which is also counter-signed by the petitioner's advocate, only notes that the pre show-cause notice in Form DRC 1A had invalid signatures. In my view, these are all factual aspects and ordinarily cannot be gone into by the writ Court. From the materials on record, it would transpire that summary of the show cause notices uploaded on the portal in Form DRC01 are all dated 14th August, 2025. The same duly identifies the demand and the particular taxable period for which such show cause notices have been issued. There is no clubbing of periods in the summary of show-cause in From DRC 01, the detailed reasons of the show-cause have been, however, provided in a composite format. In this context, it must be noted that serious allegations of smuggling of cement into India from Bhutan and concealment of GST liability on sale of smuggled cement is involved, which was unearthed during investigation, as such the consolidated show-cause was issued. The above aspect has been considered by the proper officer.

9. On the aspect of the petitioner being heard before a different authority than the authority before whom the petitioner had filed his response, I find that it is an admitted position that the authority who heard the

petitioner was a proper officer within the meaning of the said Act and it is the same proper office who had passed the order. The petitioner had not only submitted its response but was also heard and was represented by an advocate. Insofar as the contention raised by the petitioner and the order impugned does not take into consideration the objection raised, I find that though prima facie sufficient reason has been provided in the aforesaid order, the order cannot be said to be non-speaking, however, these are all disputed factual issues. It is well-settled that there cannot be any piece meal hearing. In any event, the petitioner has an alternative remedy. The initial challenge by the petitioner questioning the show cause notice was not entertained, the petitioner in fact withdrew the petition with liberty only to respond to the show cause and to be heard, no liberty was reserved to approach this Court on the self-same cause of action. However, the petitioner had chosen to challenge the order by bypassing the statutory remedy.

10. It would appear from the scheme of the said Act that the same provides for multi-tiered adjudicatory process, in other words multiple opportunity is provided to the registered tax payer/person chargeable with tax, to question the determination made under Section 73/74 of the said Act firstly, before the appellate authority then before the appellate tribunal. However, at the same time, the said act also provides for ample protection to the

revenue by directing the mandatorily pre-deposit of a percentage of the tax in dispute for availing such remedy.

11. In the instant case, in response to a query from the Court, the learned Advocate for the petitioner would submit that the petitioner is not inclined to make any such deposit and is interested to invoke the extraordinary writ jurisdiction of this Court without making payment of such deposit. I find that when the statutory remedy is available to a party and when ample safeguards has been provided for, under the scheme of the statute both to the registered tax payer as also to the department, this Court ought not to entertain the petition of this nature especially when the diverse factual issues would be required to be gone into.

12. Accordingly, the writ petition stands dismissed.

13. This order shall, however, not stand in the way of the petitioner from challenging the order passed under Section 74 of the said Act before the appropriate forum, if so advised in accordance with law.

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.)