IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Hiranmay Bhattacharyya

W.P.A. 960 of 2026

Barua and Co.
Vs.
State of West Bengal & Anr.

For the Petitioner	: *Mr. Promit Mishra* *Mr. Rakesh Majumder* *Ms. Rinka Chakraborty*
For the State	: *Mr. Jagriti Mishra, AAAG,* *Ms. Radhika Agarwal*
Heard on	: *23/07/2026*
Judgment on	: *23/07/2026*

Hiranmay Bhattacharyya, J. :-

1. The *ex parte* adjudication order dated April 9, 2024 passed by the Assistant Commissioner of State Tax, Siliguri Charge, Siliguri passed under Section 73(9) of the WBGST/CGST Act, 2017 is under challenge in this writ petition.

2. The grievance of the petitioner is that the pre-show-cause notice, show-cause notice as well as *ex parte* adjudication order were all uploaded in the "Additional Notices and Orders" tab.

3. The petitioner states that upon receipt of the Final Reminder for payment of outstanding demands in Form GST DRC-13 dated March 5, 2026, the petitioner for the first time became aware of the *ex parte* adjudication order dated April 9, 2024 and immediately thereafter filed this writ petition.

4. The learned advocate appearing for the petitioner submits that since the show-cause notices were uploaded in the Additional Tab, the petitioner could not submit the reply to the show-cause notice within the time indicated in the show-cause notice. He submits that the Adjudication Order has been passed without affording any opportunity of hearing to the petitioner. He, therefore, submits that the order of adjudication is liable to be set aside on the ground of violation of the principles of natural justice.

5. *Per contra*, Mr. Mishra, learned Assistant Additional Advocate General submits that the notices and the adjudication orders were uploaded in the web portal of the GST authorities in accordance with the provisions of Section 169 of the WBGST/CGST Act, 2017 read with Rule 142 of the Rules framed thereunder. He thus submits that uploading of Notices and Orders in the Additional Tab amounts to sufficient compliance of the requirements under the statute.

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

7. Record reveals that the show-cause notice dated December 8, 2023 was issued on the ground that after examination of the returns filed by the petitioner for the period 2018-2019 it was detected that excess claim of ITC has been made by the petitioner. The reminder letter dated March 2, 2024 was also issued.

8. It is not in dispute that the show-cause notice and the reminder letters were uploaded in the Additional Tab and not in the Normal Tab.

9. It is now judicially settled that uploading of Notices and Order in the Additional Tab cannot constitute sufficient communication in terms of the provision of Section 73 of the WBGST Act, 2017.

10. That apart, after going through the summary of show-cause notice and the reminder letter, this Court finds that though a date for submission of reply to the show-cause notice has been fixed but no date for personal hearing, the time and venue of personal hearing has been fixed.

11. Section 75(4) of the WBGST Act, 2017 states that an opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

12. From the grounds contained in the show-cause notice it is evident that an adverse decision was contemplated against the petitioner.

Thus, the authorities were under a statutory obligation to afford an opportunity of hearing to the petitioner.

13. As observed hereinbefore that no date, time and venue of the personal hearing was fixed in the show-cause notice as well as in the reminder letter.

14. This Court is, therefore, of the considered view that the provisions of Section 73(9) read with Section 75(4) of the WBGST Act, 2017 has not been complied with by the authorities in the case on hand as determination of tax, interest and penalty has been made without affording any opportunity of hearing to the petitioner.

15. For such reason this Court is inclined to interfere with the order impugned.

16. Since the reply to the show-cause notice has not been submitted and it is the specific case of the petitioner that they were not aware of the issuance of the show-cause notice at the relevant point of time, this Court is inclined to grant an opportunity to the petitioner to submit a reply to the show-cause notice.

17. For all the reasons as aforesaid, the *ex parte* adjudication order dated April 9, 2024 is set aside.

18. The petitioner is granted liberty to submit a reply to the show-cause notice within 14 working days from the receipt of a server copy of this order.

19. The Assistant Commissioner of State Tax, Siliguri Charge, being the respondent no.2 herein is directed to fix a date of hearing and decide

the issues raised in the show-cause notice afresh by passing a reasoned order after affording an opportunity of hearing to the petitioner or his Authorised Representatives as expeditiously as possible.

20. With the above observations and directions **WPA 960 of 2026** stands disposed of.

21. There will be no order as to costs.

22. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)

Item No.75
Court No.-10
Aritra