03 **01.09.26**
Ct. No.10
AGM

WPA 10091 of 2026

M/s. Bimal Misra & Ors.
vs.
The Assistant Commissioner of Revenue, State Tax, Berhampore Charge & Ors.

Mr. Sandip Choraria.
Mr. Akash Chakraborty.
Mr. R. Manna.
….for the petitioner

Mr. Prithu Dudhoria.
Ms. Sruti Datta.
….for the State-respondents

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

2. State respondent remains unrepresented in Court today.

3. Mr. Prithu Dudhoria, learned advocate along with Ms. Sruti Datta, learned advocate are engaged in this matter on behalf of the State. Their appearances be accordingly regularized from the office of the Government Pleader.

4. The present writ petition has been filed challenging inter alia, the legality and validity of the adjudication order dated 18.09.2023 passed by the respondent No. 1 under Section 73 of the West Bengal Goods and Services Tax Act(hereinafter referred to as the said 'WBGST Act') and the Central Goods and Services Tax Act, 2017(hereinafter referred to as the said 'CGST Act').

5. Learned counsel for the petitioner submits as follows;

i. That a show cause notice in Form DRC 01 No. ZD1908230160888 dated 11.08.2023 has been issued to the petitioner demanding tax, interest and penalty.

ii. That said notice has been uploaded on the GST portal under the tab ‘Additional Notice and Orders’. Due to this, the petitioner did not get any actual intimation and hence could not respond to the show cause notice.

iii. That the petitioner came to know above the adjudication order dated 18.09.2023 only upon receiving a recovery notice dated 18.03.2026.

iv. That the entire proceedings and the impugned order are contrary to law and have been passed in violation of principles of natural justice and without due compliance with the procedure prescribed under the said Act.

6. Learned counsel appearing for the State respondents opposed the writ petition and submitted since the petitioner has been granted ample opportunities to defend his case, the adjudication order has been rightly passed.

7. Having heard the parties and upon perusing the records made available this Court observes as follows;

i. The petitioner has been able to make out a prima facie case.

ii. The fact that show cause notice has been only uploaded under the 'tab Additional Notice and Orders' and no separate intimation has been given therefore, the petitioner has been unable to reply to the same. This constitutes a violation of natural justice.

8. Considering the peculiar facts of the case, interference by this Court is warranted in ends of justice.

9. In view of the above this Court directs as follows:

a. The show cause notice dated 11.08.2023 and the adjudication order dated 18.09.2023 are hereby quashed and set aside.

b. Respondent no. 4 is directed to issue a fresh show cause notice on the petitioners within a period of two weeks. The petitioners shall respond the same by filing a comprehensive and detailed reply within two weeks thereafter before the respondent no. 1. The respondent no. 1 shall consider and dispose of the reply filed by the petitioners by passing a reasoned and speaking order within a period of twelve weeks from the date of receipt of the reply in accordance with law upon affording an opportunity of personal hearing to the petitioners.

c. Such decision shall be communicated to the petitioner within a week thereafter.

10. With the above observations and directions this writ petition stands disposed of.

11. Since no affidavit in opposition has been called for, the allegations contained in the writ petition are deemed to have been denied and not admitted.

12. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)