

28.4.2023

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WPA 7757 of 2023

Mohammad Ilyas, Proprietor of Western Bharat Gas
Gramin Vitrak

Vs

Assistant Commissioner of Revenue, State Tax,
Raiganj Charge & Ors.

Mr. Himangshu Kumar Ray,

Ms. Shiwani Shaw,

Mr. Nitish Bhandary

... For the Petitioner.

Mr. A. Ray, Ld. GP.,

Mr. T.M. Siddiqui,

Mr. D. Ghosh,

Mr. S. Mukherjee,

Mr. V. Kothari

... For the State.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 21st October, 2022, under Section 73 of the WBGST Act, 2017, on the ground of violation of principle of natural justice as well as in disregarding the criteria laid down under Section 75(4) of the WBGST Act which requires a proper officer to provide an opportunity of hearing in case any adverse decision is contemplated against such an assessee, which has not been observed by the respondent authority in this matter which is an admitted position and it is also an admitted and undisputed position that the order impugned is an adverse decision.

Petitioner in support of his contention relies on judgments of the Hon'ble Allahabad High Court in the case of Bharat Mint and Allied Chemicals vs.

Commissioner of Commercial-tax, reported in (2022) 136 taxmann. Com. 275(Allahabad), decisions of the Hon'ble Andhra Pradesh High Court in the case of GRT Hotels & Resorts (P) Ltd. vs. State of Andhra Pradesh, reported in (2021) 129 taxmann. Com 426(Andhra Pradesh) and the decision of the Hon'ble Gujarat High Court in the case of Graziano Trasmissioni India Pvt. Ltd. -vs. State of Gujarat, reported in 2022(66) G.S.T.L. 38(Guj) wherein all those decisions in an unequivocal terms Courts have opined that even without any request for personal hearing by an assessee, officer must have to provide personal opportunity of hearing, if the order is contemplated to be adverse.

Mr. Ghosh, learned Advocate appearing for the respondents prays for time to make submission on the aforesaid question of law raised by the petitioner.

List this matter on 2.5.2023 under the heading "For Orders".

(Md. Nizamuddin, J.)