

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**BEFORE:
THE HON'BLE JUSTICE OM NARAYAN RAI**

WPA 21671of 2025

**Pharma Trading Corporation and Anr.
Vs.
The State of West Bengal &Ors.**

For the Petitioners : Mr. Himangshu Kumar Ray, Adv.
Mr. SubhasisPodder, Adv.
Ms. S. Shaw, Adv.
Mr. G. Chakraborty, Adv.
Mr. P. Choudhury, Adv.
Mr. P. Banerjee, Adv.

For the Respondents : Ms. Sumita Shaw, Adv.
Mr. SaptakSanyal, Adv.

Hearing Concluded on : 25.02.2026

Judgment on : 25.02.2026

Om Narayan Rai, J.:-

1. This writ petition assails an order dated May 29, 2023 and an order dated June 05, 2023 both passed under Section 73 of the WBGST Act, 2017/CGST Act, 2017 (hereafter "the said Act of 2017) whereby the petitioner has been held liable for tax for the period July 2017 to March, 2018 on the ground of excess availment of Input Tax Credit (ITC).
2. Initially, a notice to show cause was issued to the petitioner no. 1 (hereafter "the petitioner") on February 21, 2023. The said notice only contained the chart indicating the taxes alleged to be payable by the petitioner without the requisite details.

- 3.** The petitioner replied to the said notice to show cause on March 09, 2023. Thereafter, an adjudication order under Section 73 of the said Act of 2017 was passed on May 29, 2023.
- 4.** The said adjudication order was also bereft of the factual narration and the ground on which the ultimate conclusion was based.
- 5.** Subsequently, on June 05, 2023 another adjudication order containing the same amount that had been mentioned in the earlier adjudication order dated May 29, 2023 was uploaded on the portal. The same also was not supported by any ground and the statement of the relevant facts.
- 6.** On June 09, 2023, another order came to be uploaded on the portal whereby the proper officer intimated the petitioner that the petitioners' reply had been found to be satisfactory and no further action was required to be taken in the matter.
- 7.** Thereafter, on January 29, 2024 a sum of Rs.2,51,858/- was debited from the petitioner's electronic credit ledger, on the basis of the adjudication order dated June 05, 2023.
- 8.** Feeling aggrieved thereby, the petitioners have approached this court by way of the present writ petition.
- 9.** Mr. Ray, learned Advocate appearing for the petitioners submits that the proper officer has committed a series of errors. It is submitted that the show cause notice is bereft of the requisite particulars and as such the petitioners remained deprived of an effective opportunity to rebut the allegations levelled against them.
- 10.** It is further submitted that the adjudication order dated May 29, 2023 that followed thereafter is in absolute contravention of the provisions of Section

75(6) of the said Act of 2017 inasmuch as the same only contains a chart indicating the taxes payable by the petitioners without setting out the relevant facts and the basis of the conclusion.

- 11.** It is further submitted that the said order had been passed without affording the petitioner any opportunity of hearing in terms of Section 75(4) of the said Act of 2017.
- 12.** Mr. Ray further submits that the adjudication order uploaded subsequently on June 05, 2023 also suffers from the same vices. The same was also not preceded by any opportunity of hearing to the petitioner and the same is also bereft of the relevant facts and the basis of the decision. It is submitted that both the orders carry an earlier intimation in Form ASMT10 as an annexure instead of the detailed adjudication order.
- 13.** It is then submitted that in any case the petitioners are not liable to pay anything inasmuch as by the order dated June 09, 2023, the proper officer had accepted the reply of the petitioners and upon observing that such reply was satisfactory and no further action was required to be taken in the matter.
- 14.** Mr. Sanyal, learned Advocate appearing for the respondent SGST Authorities submits that the respondents should be permitted to withdraw their actions and the matter may be remitted back to the adjudicating authority for fresh consideration in view of the serial erroneous uploading of orders.
- 15.** Heard the learned Advocate appearing for the respective parties and considered the material on record.
- 16.** Upon hearing the case initially, a report in the form of an affidavit had been called for from the respondent/GST Authorities in view of the peculiar fact

situation. Such report was filed in court on February 23, 2026 wherein it has been stated that the orders dated June 05, 2023 and June 09, 2023 had been uploaded inadvertently.

- 17.** Such an excuse is wholly unacceptable. There has been series of laches on the part of the relevant GST Authority in dealing with the present matter and this Court takes a very dim view of such matter.
- 18.** Firstly, the notice to show cause is clearly bereft of particulars. It has been time and again held by the Hon'ble Supreme Court that all relevant particulars must be set out in the notice to show cause to enable the noticee to answer the charges levelled against the noticee. Not having done so, the respondent GST Authority has acted in breach of the principles of natural justice.
- 19.** Secondly, the adjudication order impugned dated May 29, 2023 is wholly unreasoned and is, therefore, in abject violation of the provisions of Section 75(6) of the said Act of 2017. It is not in dispute that the said order which clearly visits the petitioner with adverse consequences has been passed without hearing the petitioners which is a clear violation of the provisions of Section 75(4) of the said Act of 2017 apart from the violation of principles of natural justice even in usual course. On that ground too the adjudication order cannot withstand scrutiny under judicial review.
- 20.** The second repetition of the same adjudication order on June 05, 2023 was clearly without authority. Similarly the order dated June 09, 2023 communicating acceptance of the petitioner's reply could also not have been issued by the Proper Officer concerned at all inasmuch as the Proper Officer

became *functus officio* after having passed the adjudication order dated May 29, 2023. Both the said order are without jurisdiction.

- 21.** In such view of the matter, both the adjudication orders i.e. the order dated May 29, 2023 and June 05, 2023 passed by the adjudicating authority, which are impugned in the present writ petition as well as the order dated June 09, 2023 deserve to be set aside and are accordingly set aside.
- 22.** As already indicated hereinabove, since the notice to show cause does not contain the relevant particulars, the notice issuing authority shall provide all relevant particulars to the petitioners in support of the show cause notice dated February 21, 2023 and the petitioners shall be entitled to file reply thereto in accordance with law.
- 23.** Since a sum of Rs.2,51,858/- has been debited from the petitioners' electronic credit ledger on the basis of the adjudication order dated June 5, 2023, which has no basis in law, in terms of the respondents own report in the form of an affidavit, therefore the debiting of electronic cash ledger of the petitioner on the strength of such order cannot also be held to be valid. Accordingly it is directed that the respondent GST authorities shall reverse the debits and recredit the amount debited from the petitioner's electronic cash ledger on the strength of the order dated June 05, 2023 within a period of two weeks from the date of communication of this order.
- 24.** WPA 21671 of 2025 stands disposed of with the above observations. No costs.

(SD)

(Om Narayan Rai, J.)