

WPA 4625 of 2025

**Annu Projects Private Limited (Formerly known as
Annu Projects Pvt. Ltd.)
Versus
Sr. Joint Commissioner, State Tax, GST Appeal &
Ors.**

Mr. Rajeev Kumar Agarwal
Ms. Suman Sahani

...For the petitioner

Mr. Amitabrata Roy, Ld. GP
Mr. Nilotpal Chatterjee
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
Mr. Debraj Sahu

...For the State

1. Challenging the order dated 22nd January, 2025 passed by the appellate authority in Form GST APL – 02 rejecting the appeal on the ground of delay in submitting the appeal from an order passed under Section 73 of WBGST/CGST Act, 2017 (hereinafter referred to as the “said Act”) for the tax period April 2018 to March 2019 dated 24th April, 2024, the instant writ petition has been filed.
2. According to Mr. Agarwal, learned advocate appearing for the petitioner although a show cause notice in Form GST DRC-01 was issued on 15th December, 2023, such show cause notice was uploaded under “*Additional notices and orders*” tab and as such, the petitioner had no adequate intimation with regard to the aforesaid show cause notice. The order passed under Section 73 of the said Act was

passed ex parte. According to him, the proper officer also did not afford the petitioner with an opportunity of hearing as is required under Section 75 (4) of the said Act. This apart, he submits that there was a marginal delay in filing the appeal since the petitioner was not aware with regard to the factum of passing of the aforesaid order since the order under Section 73 of the said Act itself was also uploaded under “*Additional notices and orders*” tab.

- 3.** Having heard the learned advocates appearing for the respective parties I find that there is a marginal delay in preferring the aforesaid appeal. However, having regard to the admitted position as regards non compliance of statutory provision in not affording opportunity of hearing to the petitioner by the adjudication authority as is required under Section 75(4) of the said Act, I am of the view that the order passed under Section 73 of the said Act dated 24th April, 2024 cannot be sustained and the same is accordingly set aside and the matter is remanded back to the adjudicating authority for a fresh decision on merits.
- 4.** The petitioner shall be at liberty to file response to the original show cause notice dated 15th December 2023 within two weeks from date. In

the event, such response is filed, the adjudicating authority / proper officer upon giving an opportunity of hearing to the petitioner, shall hear out and dispose of the proceedings on merits in accordance with law. As a sequel thereto, the order dated 22nd January, 2025 passed by the appellate authority is also set aside.

5. The pre deposit made by the petitioner should be retained to the credit of the proceedings.
6. With the above direction and observation, the writ petition is disposed of.
7. All parties shall act on the basis of server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)

