

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

WPA/8/2025

S. N. Tiwari

Vs.

The Union of India and Others

Mr. Arup Dasgupta

[through virtual mode]

Ms. K. Bhawani

... for the petitioner

Mr. Vipul Kundalia, Sr.Adv.

Mr. Ayanabha Rao,

Mr. Anindya Kanan

[through virtual mode]

... for the respondent nos.2,4,5

February 07, 2025

[SR]

Item no. 6

1. By presenting this writ petition, *inter alia*, challenge has been thrown to the order dated 7th December, 2023 passed by the Superintendent (Range-III), Andaman and Nicobar Division Haldia CGST & CX Commissionerate. It has been agitated by the learned advocate representing the petitioner while questioning the validity of the impugned order dated 7th December, 2023 that though notice was issued under section 73 of the Central Goods and Services Tax Act, 2017 (hereinafter referred as the said "Act of 2017") but order was passed under sections 73 & 74 of the aforesaid Act of 2017. Manner of serving notice upon the petitioner is also questioned in this writ petition.

2. Mr. Kundalia, learned senior advocate representing the respondents has disputed the contention of the petitioner that show cause notice was not appropriately served upon the petitioner upon placing reliance on section 169 of said Act of 2017.

3. However, on perusal of the relevant provisions of the said Act of 2017, it appears that under section 107, there is a provision to prefer an appeal against any decision and/or order passed under the said Act of 2017.

4. In view of availability of efficacious alternative remedy, this Court grants leave to the petitioner to prefer an appeal under section 107 of the said Act of 2017 against the order dated 7th December, 2023 by fortnight from date. If appeal is preferred within the aforesaid time, the appellate authority without raising the issue of limitation shall decide the same on merits in accordance with law by twelve weeks thereafter.

5. Hence writ petition stands disposed of.

6. Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocate appearing for the parties upon compliance of usual formalities.

(Saugata Bhattacharyya, J.)