In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction
Appellate Side

The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And The Hon'ble Mr. Justice Uday Kumar

M.A.T. No.53 of 2025
+
IA No: CAN 1 of 2025

M/s Ram Kumar Sinhal
Vs.
State of West Bengal and Others

For the appellant	:	Mr. Dhiraj Lakhotia, Ms. Radhika Agarwal, Ms. Meghana Joshi, Ms. Khushi Kundu, Ms. Madhulika Sharma
For the respondents	:	Mr. Momenur Rahaman, Ms. Rima Sarkar
Heard and reserved on	:	23.07.2025
Judgment on	:	28.07.2025

Sabyasachi Bhattacharyya, J.:-

1. The present appeal arises out of an order passed by the learned Single Judge dismissing the writ petition of the appellant/partnership firm, which was preferred against an order of the Appellate Authority under Section 107 of the West Bengal Goods and Services Tax Act, 2017

(hereinafter referred to as "the WBGST Act"), only on the ground of limitation.

2. The brief facts of the case are as follows:

3. An intimation in Form GST DRC-01A was issued by the Proper Officer to the assessee/appellant detailing discrepancies for the tax period April 1, 2019 to March 31, 2020. The same was followed by a Show Cause Notice under Section 73(1) of the said Act dated May 10, 2024. In the said Show Cause Notice, the date of personal hearing was scheduled on June 3, 2024 whereas the date for filing reply to the Show Cause Notice was mentioned as June 10, 2024.

4. The appellant filed a written representation/reply on June 10, 2024, specifically seeking therein a personal hearing.

5. However, by an *ex parte* assessment order dated August 12, 2024, the liability of the appellant was fixed at Rs.17,79,242/-. The Proper Officer was of the opinion that an opportunity of hearing had already been given to the appellant in the Show Cause Notice.

6. The order was uploaded on the self-same date, that is, on August 12, 2024 under the tab "View Additional Notices/Orders" (for short, "the Additional Tab") on the GST Portal and the not under the "View Notices and Orders" tab (in brief, "the Normal Tab").

7. The appellant filed an appeal under Section 107 of the WBGST Act on April 2, 2025, beyond the limitation period as stipulated in Section 107(1) as well as the additional period of one month given under Section 107(4) of the said Act. The reason for the delay, as pleaded

by appellant, was two-fold – medical grounds of the two active partners of the appellant-Firm, and the difficulty in viewing the Additional Tab, under which the order was uploaded, since the said tab was not the Normal Tab under which such orders are supposed to be uploaded.

8. Upon hearing the appellant, the Appellate Authority dismissed the appeal only on the ground of limitation by an order dated April 23, 2025, which was the subject-matter of challenge in the writ petition bearing WPA No.1140 of 2025.

9. The learned Single Judge, by an order dated June 11, 2025, which is impugned herein, dismissed the said writ petition on the grounds as set forth in the said judgment, prompting the present appeal.

10. Learned counsel appearing for the appellant contends that the learned Single Judge failed to take into consideration the judgment of *S.K. Chakraborty and Sons v. Union of India*, reported at *(2024) 123 GSTR 229*, where a co-ordinate Bench of this Court held that the Appellate Authority has the power to condone delay even after the statutory period stipulated in Section 107 of the WBGST Act. It is contended that the learned Single Judge failed to take into consideration the medical grounds cited by the appellant. Whereas both the active partners were engaged due to medical emergencies, the learned Single Judge took into consideration the disability of only one of the partners and proceeded on the premise that the other partners could have

preferred the appeal in time. Secondly, it is argued, the learned Single Judge failed to take into consideration the settled proposition of law that in the event there is a violation of natural justice, the writ court can interfere even where the statutory limitation period has been transgressed.

11. In support of such contention, learned counsel cites *Murtaza B. Kaukawala v. State of West Bengal*, reported at *(2023) 156 taxmann.com 377 (Calcutta)*, *Delta Goods (P.) Ltd. v. Union of India*, reported at *(2024) 167 taxmann.com 641 (Calcutta)*, *Chandni Crafts v. Union of India*, reported at *(2023) 148 taxmann.com 164 (Rajasthan)* and *Shreeji Developers v. State of Gujarat*, reported at *(2025) 172 taxmann.com 359 (Gurajat)*.

12. Learned counsel for the appellant further argues that by the Show Cause Notice dated May 10, 2024, the respondent-Authorities fixed the date of personal hearing on June 3, 2024 whereas the date for submission of reply to the show cause was fixed on June 10, 2024, on which date the same was actually filed. It is contended the in order to afford a proper opportunity of personal hearing, the date of filing the reply to the show cause, on the basis of which such personal hearing is to be given, has to precede the date of hearing. In the present case, however, the cart was put before the horse by fixing the date of hearing on June 3, 2024, that is, seven days prior to the date of filing the reply, that is, June 10, 2024. The said irregularity vitiates the entire assessment as a whole.

13. In support of such contention, learned counsel cites *M/s. Ans Trading Company v. Deputy Commissioner State Tax and another*, reported at *2024:AHC:182815-DB, in the Hon'ble High Court at Allahabad*, *Mahaveer Trading Company v. Deputy Commissioner, State Tax*, reported at *(2024) 163 taxmann.com 515 (Allahabad)*, *Mahindra & Mahindra ltd. v. Union of India*, reported at *[2024] 162 taxmann.com 53 (Chhattisgarh)*, *S.P. Singla Constructions (P.) Ltd. v. Union of India*, reported at *[2025] 173 taxmann.com 241 (Patna)*, *Modine Therman System (P.) Ltd. v. State of Uttarakhand*, reported at *[2025] 174 taxmann.com 1252 (Uttarakhand)* and *Adama India (P.) Ltd. v. Union of India*, reported at *[2024] 165 taxmann.com 95*.

14. Learned counsel for the appellant next argues that the Show Cause Notice was uploaded on the Additional Tab instead of the Normal Tab on the GST portal. Learned counsel cites a series of judgments, as mentioned in paragraph no. 17 below, where various High Courts have held that the Additional Tab is not easily accessible and as such, affords sufficient ground to hold that there was no proper service of the Show Cause Notice as contemplated in Section 73 of the WBGST Act and the connected Rules.

15. As per the Rules, proper uploading in the GST Portal or direct service via SMS/e-mail can be effected. In the present case, no direct service by the second method was effected by the respondent-Authorities. Since the uploading was also faulty and it was difficult to access the

concerned tab in the Portal, which is a pan-India problem according to the appellant, the service of notice was itself vitiated.

16. Thus, it is argued that there was no deliberate delay on the part of the appellant in preferring the appeal late, which was not considered by the Appellate Authority or the learned Single Judge at all.

17. In support of such contentions, learned counsel for the appellant cites *Lord Vishnu Construction (P.) Ltd. v. Union of India*, reported at *[2025] 172 taxmann.com 794 (Patna)*, *Neelgiri Machinery v. Commissioner Delhi Goods and Service Tax*, reported at [*2025] 172 taxmann.com 847 (Delhi)*, *Ola Fleet Technologies (P.) Ltd. v. State of UP*, reported at *[2025] 170 taxmann.com 66 (Allahabad)*, *Light Group v. State of Madhya Pradesh*, reported at *[2025] 174 taxmann.com 663 (Madhya Pradesh)*, *Ishan Snax Private Limited v. Assistant Commissioner of Revenue, Siliguri Charge & Ors.* in *WPA 1517 of 2024 (Circuit Bench at Jalipaiguri, in the High Court at Calcutta)*, *Viswaat Chemicals Ltd. v. Sales Tax Officer*, reported at *[2025] 173 taxmann.com 419 (Gujarat)*, *Surya Resmi Traders v. State Tax Officer*, reported at [*2025] 173 taxmann.com 644 (Kerla)*, *Tvl. Sri Renkanna Steels v. Assistant Commissioner (ST), Chennai*, reported at 2024 *165 taxmann.com 727 (Madras)*, *St. Xaviers College Calcutta*

Alumni Association v. Dy Commissioner of Revenue Cgst and Ors. in *WPO 559 of 2024 (High Court at Calcutta)* and *Sukumar Kundu v. Union of India & Ors.* in *WPA 12124 of 2024 (High Court at Calcutta)*.

18. Learned counsel also cites *State of U.P. v. Mohammad Nooh*, reported at *AIR 1958 SC 86*, where it was held that if an inferior court or Tribunal acts wholly without jurisdiction or patently in excess of jurisdiction, the superior court may exercise its power to issue a writ of certiorari even when an appeal to another Tribunal was available and recourse was not had to it, or if such Tribunal merely confirmed what *ex facie* was a

nullity.

19. Learned counsel appearing for the respondent-Authorities contends that the learned Single Judge was perfectly justified in passing the impugned order by adverting to all relevant aspects.

20. It is argued that nothing prevented the appellant from appearing on June 3, 2024 before the Proper Officer for the purpose of personal hearing. Sufficient time was given to the appellant to do so, since the notice was issued on May 10, 2024. Since the appellant deliberately chose to skip such hearing, it cannot now turn around and contend that there was a procedural irregularity. In the event the appellant had any objection regarding the timelines, the appellant could very well have pointed it out on the date fixed for personal hearing itself.

21. In any event, the appellant in the present case has filed a detailed reply/representation to the show-cause which was considered while

making the impugned assessment. Thus, the assessment order was not vitiated on such count.

22. It is argued that there is no difficulty for an assessee to access the Additional Tab which is clearly available on the concerned official GST Portal. Thus, the argument of the appellant that there was some technical difficulty in accessing the tab is without any basis whatsoever. It is argued that the appellant deliberately cites the existence of the Additional Tab to get around limitation.

23. In any event, it is contended that an appeal has been preferred against the judgment in *S.K. Chakraborty (supra)*[1] before the Supreme Court. The Supreme Court, in connection with the said SLP, has granted a stay of operation of the judgment of this Court in the said case.

24. Learned counsel points out that Section 107, sub-sections (1) and (4), read together, provide an outer limit of 3+1= 4 months for preferring an appeal. Beyond such period, the Appellate Authority does not have the power to condone the delay in preferring the appeal. In the present case, as rightly held by the learned Single Judge, the appellant was delayed by about three months and twenty days even beyond the expiry of the said four months' outer limit.

25. Hence, the delay was rightly not condoned.

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[1] . ***S.K. Chakraborty and Sons v. Union of India, reported at (2024) 123 GSTR 229.***

26. Even otherwise, it is argued that the appellant was negligent in preferring the appeal since the medical ground taken in the application was frivolous and baseless.

27. Learned counsel for the respondents reiterates that there was no violation natural justice and as such, the powers under Article 226 ought not to be invoked.

28. Learned counsel for the respondents seeks to distinguish the judgments cited by the appellant on facts. It is submitted that it might very well have been that in certain cases, there were some technical glitches regarding accessing the Additional Tab, but there was no such technical issue in accessing the tab at the relevant juncture when the notice under Section 73 (1) was issued in the present case. Thus, the judgments cited on such count by the appellant are not germane for the present consideration.

29. Upon hearing learned counsel for the parties, it transpires that several issues have been raised in the matter, which are dealt with below:

Delay

30. There are two sub-issues involved under the question as to whether the delay occasioned in preferring the appeal before the Appellate Authority could be condoned. The first component is whether the Appellate Authority and/or the writ court had power to so condone

and secondly, whether, on facts of the case, the same ought to have been condoned.

31. In *S.K. Chakraborty (supra)*[2], the Co-ordinate Bench of this Court categorically observed that the timelines stipulated in Section 107(4) of the WBGST Act are not mandatory and the provisions of the Limitation Act are applicable.

32. The mere fact that an order of stay has been passed in respect of the said judgment does not take away the value of the same as a precedent. The operation of the order between the parties therein has been stayed, but the ratio therein is binding on co-ordinate Benches as per the Law of Precedents.

33. Even otherwise, on an independent consideration of the issue, we are of the opinion that the proposition laid down in *S.K. Chakraborty (supra)*[2], with utmost respect, is correct.

34. While considering the said issue, we are to ascertain whether the timeline stipulateds in sub-sections (1) and (4) of Section 107 of the WBGST Act are mandatory.

35. Sub-section (1) provides that the appeal has to be preferred within three months from the date on which the decision and order is communicated to the assessee, whereas sub-section (4) provides that the Appellate Authority may, if satisfied that the appellant was prevented by sufficient cause, allow the appeal to be presented within

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[2] . ***S.K. Chakraborty and Sons v. Union of India, reported at (2024) 123 GSTR 229.***

a further period of one month. It is to be noted that sub-section (4) of Section 107 is not couched either in negative language, debarring an appeal from being filed after the outer limit of one month, nor is the mandatory expression "shall" used in any manner.

36. By resorting to internal aids of interpretation available in the self-same Section, we find that sub-section (6) of Section 107 uses such negative and mandatory language, debarring any appeal from being filed at all unless the payments as stipulated in Clauses (a) and (b) of sub-section

(6) are made.

37. The language of sub-section (6) is couched in the following manner: *"No appeal shall be filed under sub-section (1), unless the appellant has paid …".*

As opposed thereto, sub-section (4) provides that the Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

38. Thus, the intention of the Legislature to keep the said timeline under sub-section (4) of Section 107 directory is evident from the contrary expression used in sub-section (6) in the self-same Section. If the Legislature intended sub-section (4) to be couched in a similar negative and mandatory language, absolutely debarring appeals from

being filed after expiry of four months, the Legislature would have used such language in sub-section (4) as well.

39. Applying external aids for the interpretation of Section 107 of the WBGST Act, we can look at a somewhat similar timeline stipulated in the proviso to Section 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as "the 1997 Act"), another State legislation of the State of West Bengal.

40. Sub-sections (1) and (2) of Section 7 of the 1997 Act stipulate a timeline for making the deposits as contemplated therein. As per the proviso to sub-section (2) of Section 7, extension in respect of such deposit can be granted *only* once and the period of extension *shall not exceed* two months. Sub-section (3) of Section 7 of the said Act provides that if the defendant in an eviction suit under the said Act fails to deposit within the time or the extended time as stipulated thereinabove, the Controller under the said Act *shall* order the defence of the defendant to be struck out.

41. Thus, in a similar scenario, where a particular outer limit of extension of time has been provided, the 1997 Act makes such outer time-limit mandatory by using the expressions "only once" and "shall not exceed two months". Coupled with the following sub-section (3), the effect of the timeline is that in case of violation of the same, no such deposit can be permitted at all.

42. In this regard we should look at Section 29(2) of the Limitation Act, 1963, which provides that Sections 4 to 24 of the said Act shall apply to special or local laws only insofar as, and to the extent of which, they are not *expressly* excluded by such special or local law. Hence, the purport of Section 29(2) is that the bar has to be express and explicit. By default, if there is no express bar in the special law itself, the provisions of the Limitation Act shall apply.

43. Since, in view of our comparison above, there is no express bar found in Section 107(4) of the WBGST Act, the obvious conclusion is that the provisions of Section 5 (which comes with Sections 4 to 24) of the Limitation Act, 1963 should apply.

44. It is interesting to note, by drawing inspiration from our previous analogy with the 1997 Act, that Section 40 of the said Act stipulates that subject to the provision of the said Act relating to the limitation, the provisions of the Limitation Act shall apply to all proceeding and appeals under the 1997 Act. Hence, despite the Limitation Act having been applied in respect of the said Act, the proviso to Section 7(2) of the 1997 Act provides a specific and express exclusion of the operation of the Limitation Act, unlike Section 107(4) of the WBGST Act.

45. Thus, this Court is of the opinion that the timeline stipulated in Section

107(4) of the WBGST Act is not mandatory but directory.

46. Another aspect which crops up for consideration on the question of delay is, what would be the starting point of limitation for preferring the appeal in the present case.

47. Section 107(1) of the WBGST Act specifically provides that the starting point will be the date on which the decision or order is communicated to the assessee/aggrieved person.

48. In the present case, it is an admitted position that no individual communication was made directly either by SMS or e-mail to the appellant/assessee in respect of the assessment order. Although uploading on the GST Portal is an accepted mode under the statute and the Rules framed thereunder, a glaring question arises here, as to whether the uploading of the notice only on the Additional Tab would suffice as communication.

49. A printout of the relevant portal has been annexed to the supplementary affidavit filed by the appellant in connection with the CAN 1 of 2025 in the present appeal. We find therefrom that the Normal Tab in respect of viewing notices and orders appears second from the top in the list of tabs appearing on the said portal whereas the Additional Tab is placed seventh from the top. Thus, there is every chance that an assessee would miss out the seventh tab and would only click the Normal Tab, since the latter is captioned comprehensively as "View Notices and/or Orders", after viewing which no necessity might be felt at all to look for any other tab.

50. On a more fundamental premise, there is no explanation furnished in the GST Portal itself as to which notices and orders would come under the Normal Tab and which would come under the Additional Tab.

51. In the present case, the notice under Section 73(1) was, for all practical purposes, the first notice issued in connection with the assessment to the appellant/assessee. Thus, the term "additional" did not apply at all. If there was a question of multiple notices being issued at that point of time, or of previous notices having been issued, there still could have been a justification for uploading the notice under Section 73(1) under the Additional Tab. In the present case, however, since the said notice was the first of its kind in respect of the present assessment, there was no reason or occasion at all for the appellant to click the Additional Tab. Hence, the accessibility of the notice only under the Additional Tab, as opposed to the Normal Tab, could not constitute a proper communication or uploading as contemplated in Section 73(1) of the WBGST Act, read with the concerned Rules.

52. In this regard, we are constrained to observe that the GST Authorities must take note of the issue being faced with regard to accessibility of notices from the Normal Tab from the end of the assessee, which has already been taken note of and red-flagged in several judgments and orders passed by different High Courts.

53. Thus, the GST Authorities should indicate clearly on the relevant webpage/portal as to what category of notices or orders would come

under the Additional Tab and which types of notices or orders would be accessible under the Normal Tab. In the alternative, the GST authorities should ensure that there is no Additional Tab at all and all notices and orders are uploaded under a single tab under the caption "View Notices and/or Orders".

54. In view of the above observations, there was no proper communication of notice at all to the appellant in the present case at any point of time, since the purported uploading thereof was vitiated on the grounds as indicated above.

55. Even if it is taken that there was proper uploading of the notice, the appellant has clearly made out a convincing case for condonation of delay. It was specifically pleaded by the appellant before the Appellate Authority that out of the two active partners of the appellant-Firm, which is a family firm, one underwent surgery and the other was engaged in looking after his seriously ailing mother at the relevant point

of time. The learned Single judge, while deciding such issue, observed that the absence of only one of the partners was explained, by overlooking the other aspects of the matter.

56. The learned Single Judge, with utmost respect, applied double standards while applying rigidly the strict rule of interpretation in respect of the timelines provided in the WBGST Act, but took a softer approach in applying the strict rule with regard to the rigorous

compliance of the provisions of the statute in respect of proper service of notice under Section 73(1) of the WBGST Act.

57. Thus, in the present case, sufficient grounds have been made out by the appellant for condonation of the delay in preferring the appeal before the Appellate Authority after about three months and twenty days from the expiry of the four months' outer limit as provided in the statute.

Natural Justice

58. It is well-settled that the strict rule of interpretation is applied in respect of taxing and penal statutes. Since the relevant provisions of the WBGST Act are penal in nature and the WBGST Act itself is a taxing statute, the strict rule of interpretation has to be applied in construing its provisions. Going by the said rule, where some action is provided for in the statute to be done in a particular mode and manner, it either has to be done exactly in accordance therewith or not at all.

59. The scheme of the WBGST Act is required to be looked into in this context.

60. Section 74 of the said Act applies in cases where tax is not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud, wilful misstatement or suppression of facts. On the other hand, Section 73 contains similar provisions in respect of cases where such fraud, wilful misstatement or suppression of fact is absent. As the notice to the present appellant

was issued under Section 73(1), it is a foregone conclusion that there was no allegation of fraud, wilful misstatement or suppression of facts.

61. Section 73(1) provides for service of a notice on the person chargeable with tax where it appears to the Proper Officer that any tax is not paid or short paid or erroneously refunded or where input tax credit wrongly availed or utilised.

62. Sub-section (9) of Section 73, on the other hand, stipulates that the Proper Officer shall, *after considering the representation, if any, made by person chargeable with tax*, determine the amount of tax, interest and penalty equivalent to 10 per cent of tax or Rs.10,000/-, whichever is higher, due from such person and issue an order.

63. Section 75 of the Act contains the general provisions relating to determination of tax, as evident from its caption. The said Section is an umbrella provision which circumscribes and takes under its sweep scenarios both under Section 73 and Section 74 and imposes additional obligations on the GST Authorities over and above those stipulated in Sections 73 and 74 respectively.

64. Section 73(1), read with Section 73 (9), require a notice to be served and representation by way of reply to the said Show Cause Notice, if given by the assessee, to be considered before passing an order. Subsection (4) of Section 75 imposes an additional obligation on the Proper Officer to grant an opportunity of hearing to the assessee under two circumstances – first, where a request is received in writing

from the assessee and second, where any adverse decision is contemplated against such person.

65. Thus, on a composite reading of Section 73, sub-sections (1) and (9) and Section 75(4) of the GST Act, it is seen that not only is a notice to be served before passing an assessment order, the Proper Officer is to comply with both the requirements – consider the representation/reply to the Show Cause Notice and also to give an opportunity of hearing to the assessee in the event a written request in that regard is received from the assessee or an adverse decision is contemplated against such person.

66. In the present case, both the occasions contemplated in Section 75 (4) arose, since, in its reply dated June 10, 2024, filed on the scheduled date, the appellant/assessee categorically sought an opportunity of personal hearing and an adverse decision was contemplated against the appellant. The Proper Officer turned down such request of the appellant on the premise that an opportunity of hearing had already been given. However, the date of such hearing was fixed on June 3, 2024, that is, prior to the date of filing the representation which, as rightly argued by the appellant, is a typical case of the proverbial "putting the cart before the horse". If a statute provides both a right of representation and a personal hearing, it is self-evident that such hearing has to be given on

the basis of the said written representation. A hearing prior to the representation is an absurd proposition, since such a hearing would

be illusory. It is all the more absurd if taken to its logical conclusion. In a case where a hearing is given prior to the representation, two opportunities of hearing have to be given, one without a representation and another on the representation.

67. In the present case, even if we ignore the written request in writing for a personal hearing made in the representation of the appellant itself, since the Proper Officer contemplated an adverse decision against the assessee, which is clear from the Show Cause Notice itself, it was mandatory for a hearing to be given.

68. As discussed above, apart from the illusory prior date of hearing, no further opportunity was given to the appellant at all on the representation.

69. Thus, the principle of natural justice, *Audi Alteram Partem*, as embodied in Section 73(9) and Section 75(4) of the WBGST Act, were categorically denied to the appellant.

70. A catena of judgments, as noted above, have been cited by the appellant to underscore the proposition of law that where an appeal is dismissed despite the violation of natural justice at the stage of adjudication and/or the Appellate Authority fails to set right such violation on the technical pretext of the appeal being time-barred, it is wide open for the writ court to set aside such illegality by quashing the action/order taken in violation of the principles of natural justice.

71. In the present case, as discussed above, there was palpable violation, not only of the principles of natural justice but also the specific

provisions of Section 73(9), read with Section 75(4), of the WBGST Act, which palpably vitiated the assessment order of the Proper Officer.

72. Thus, even on the said ground, the impugned orders of the Appellate Authority as well as the Proper Officer ought to be set aside without going into the technicality of delay, more so since the delay was not inordinate and sufficient explanation for the delay was furnished.

73. In the backdrop of the above findings, the question which needs to be considered now is whether the restrictive scope of an intra-court appeal ought to be invoked in the present case.

74. We find from the impugned order of the learned Single Judge that the above relevant facets of the matter have been overlooked in the impugned order.

75. With due respect, the learned Single judge turned the strict rule of interpretation in respect of taxing statutes, applicable to the WBGST Act, on its head by sticking to the said principle for the purpose of considering the timelines provided, while giving a go-bye to such principle in interpreting the specific provisions of opportunity of hearing and consideration of representation embodied in Sections 73(9) and 75(4) of the WBGST Act. It is trite law that if the statute provides a particular mode in which an order has to be passed or an action has to be taken by an authority, it is either to be done in that manner or not at all. In the present case, as discussed above, the

timelines, even on a strict interpretation, are not mandatory whereas the provision for giving

an opportunity of hearing on the representation of the assessee is so. Such vital aspect was totally overlooked in the impugned order.

76. Secondly, while considering the starting point of limitation, the learned Single Judge proceeded on the premise that due communication of the notice was effected on the appellant, without taking into account the glitches as pointed out above in uploading the notice on the Additional Tab instead of the Normal Tab.

77. That apart, while observing that proper explanation of the delay was not given, the learned Single Judge took into account the explanation only for one of the partners who had suffered surgery while overlooking the ground taken in respect of the other active partner of the appellantFirm who was extremely busy for justified reasons, looking after his seriously ailing mother at the relevant point of time.

78. The other aspect which was overlooked in the impugned order is the settled proposition of law that the writ court can interfere, either by issuing a writ of certiorari or mandamus, where there is patent miscarriage of justice or violation of the principles of natural justice as well as violation of the modalities provided in the statute itself, as in the present case.

79. In such view of the matter, we are of the opinion that the judgment of the learned Single Judge is vitiated by patent error of law and, as such, ought to be set aside.

80. Accordingly, M.A.T. No.53 of 2025 is allowed on contest, thereby setting aside the impugned order dated June 11, 2025 passed in W.P.A.

No.1140 of 2025 as well as reversing the orders of the Appellate Authority dated April 23, 2025 and the order passed by the Proper Officer in respect of the assessment with regard to the appellant-Firm. It is made clear that nothing in this order shall preclude the respondent-Authorities from issuing a fresh notice under Section 73(1) of the West Bengal Goods and Services Tax Act, 2017 and from proceeding afresh on the basis of the same, upon due compliance of the relevant provisions of the said Act and in accordance with law, in the light of the observations made above.

81. Consequentially, IA No: CAN 1 of 2025 is disposed of as well.

82. There will be no order as to costs.

83. Interim orders, if any, stand vacated.

84. The respondent-authorities shall specifically take note of the observations made in paragraph nos. 52 and 53 of this judgment and take curative steps accordingly at the earliest in order to obviate any future doubt being created as to whether the uploading on the GST Portal would constitute a proper communication of the notice under Section 73(1) of the WBGST Act and the Rules framed thereunder.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)