Item No.3.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

HEARD ON: 24.11.2022

DELIVERED ON:24.11.2022

CORAM:

THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM

AND

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T No.310 of 2019
with
I.A. No.CAN 1 of 2019 (Old CAN 2466 of 2019)

Amal Kumar Ghosh.
Vs.
Union of India & ors.

Appearance:-

Mr. Malay Dhar,
Mr. Amal Nath Sen,
Mr. B. Sengupta ... for the appellant.

Mr. K. K. Maiti,
Mr. Bhaskar Prosad Banerjee ... for the CGST & CX authorities.

Mr. Tapan Bhanja ... for Union of India.

JUDGMENT

(Judgment of the Court was delivered by* T.S. SIVAGNANAM*, J.)

1. This intra Court appeal is directed against the order dated 29th January, 2019 passed in W.P. No.1401(W) of 2019. The appellant approached the Writ Court with a grievance that two authorities are seeking to assume jurisdiction over the selfsame subject matter. It was his further submission that the audit commissionerate has no jurisdiction to proceed with the matter especially after the advent of the GST regime. The learned Single Bench has disposed of the writ petition by permitting the Kolkata Audit –II, Commissionerate to proceed against the petitioner. The period in issue is for the financial years 2015-2016, 2016-2017 and 2017- 2018 and the notices were issued by the authorities during October, 2018 and the writ petition was filed in the year 2019, which was disposed of on 29th January, 2019.

2. By efflux of time, it would be academic for the Court to adjudicate the correctness of the plea raised by the appellant as to which of the authorities can assume jurisdiction. In any event, it is not appropriate for the Audit Commissionerate to initiate proceedings at this juncture after the advent of the GST regime.

3. The learned senior standing counsel appearing for the respondent would submit that the concerned commissionerate, who

has jurisdiction over the appellant will initiate appropriate action in accordance with law. The said submission is placed on record.

4. Accordingly, the appeal along with the connected application are allowed and the order passed in the writ petition is set aside with a direction to the appropriate officer in the office of the Commissioner of Central Tax, Haldia CGST & CX Commissionerate, Medinipur to issue notice to the appellant clearly setting out as to what is the allegation against the appellant.

5. On receipt of the notice, the appellant is directed to submit his reply in which he is also at liberty to raise the jurisdiction of the authority to initiate proceedings under the relevant statute. After receipt of the reply and documents that the appellant may file, the appropriate authority shall adjudicate the matter after affording an opportunity of personal hearing to the appellant or his authorised representative. This direction to issue show cause notice shall be complied with within a period of three weeks from the date of receipt of the server copy of this judgment and order.

6. There shall be no order as to costs.

7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM, J)

I agree,

(HIRANMAY BHATTACHARYYA, J.)

NAREN/PALLAB(AR.C)