Item no. 05

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice T.S. Sivagnanam
And
The Hon'ble Justice Bivas Pattanayak

MAT 788 of 2017

Faneesh Mishra
vs.
The Sales Tax Officer, Salt Lake Charge & ors.

Appearance:

For the Appellant	:	Mr. Anil Kumar Dugar
For the State respondent	:	Mr. Debasish Ghosh
Heard on	:	12.07.2022
Judgment on	:	12.07.2022

T.S. Sivagnanam J.:

We have heard Mr. Dugar, learned counsel for the appellant and Mr. D. Ghosh, learned counsel for the State respondent.

This intra court appeal is directed against the writ petition being W.P. 4067(W) of 2017 which was dismissed by a common order dated 30.03.2017. Against the said common order several appeals were filed before this Court and in MAT 784 of 2017, by a common judgment dated 25.03.2022, the appeals were dismissed with certain directions. The said decision will apply with full force to the case on hand. The operative portion of the said judgment reads as follows:

> *"84. In the result, the appeals are dismissed and the constitutional validity of the second proviso to Section 84(1) is upheld. In cases where the appellants have prayed for consequential relief in the writ petitions by challenging show-cause notices or assessment orders, liberty is granted to such of those appellants to file the reply to the show-cause notices within 30 days from the date of receipt of the server copy of this judgment and order after which the concerned assessing authority shall proceed with the matter in accordance with law. In cases where the appellants have challenged the orders of assessments, they are granted to file appeal before the concerned appellate authority within 30 days from the date of receipt of the server copy of this order and if such appeal is filed and the conditions in Section 84(1) are complied with, the appellate authority shall entertain the appellants appeals without rejecting the same on the ground of limitation. No costs."*

In the result, the instant appeal is **dismissed** and the constitutional validity of the second proviso of Section 84(1) of the Act is upheld. The appellant is granted liberty to file an appeal before the concerned appellate authority within 45 days from the date of receipt of server copy of this judgment and order and if such appeal is filed and the conditions contained under Section 84(1) of the Act is fulfilled, the appellate authority shall entertain the appeal without rejecting the same on the ground of limitation.

(T. S. Sivagnanam, J.)

(Bivas Pattanayak, J.)

Saswata/Amitava (AR. CT.)