Item no. 19

IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

Present:

The Hon'ble Justice T.S. Sivagnanam

And

The Hon'ble Justice Hiranmay Bhattacharyya

FMA 167 of 2022

with

IA No.: CAN 1 of 2022

.Frost International Limited & Anr

vs.

Deputy Commissioner, Central Audit Unit & Ors.

Appearance:

For the Appellant : Mrs. Rita Mukherjee
Mr. Abhijit Das

For the Respondents : Mr. A. Ray, Ld. G.P.
Mr. T.M. Siddiqui
Mr. D. Ghosh
Mr. D. Sahu

Heard on : 22.11.2022

Judgment on : 22.11.2022

T.S. Sivagnanam J.:

This intra-Court appeal filed by the writ petitioners is directed against the order dated 9th July, 2022 passed in WP No.30617 (W) of 2017. The said writ petition was filed by the appellants challenging the order passed by the Fast Track Revisional Authority, Commercial Taxes, West Bengal dated 10th November, 2016 in the revision case filed by the appellant being Revision Case No. Rev-629/FT-1/15-16. The order passed by the Revisional Authority is an ex parte order which was questioned in the writ petition. However, the learned Single Bench was not inclined to interfere with the order passed by the Fast Track Revisional Authority. Aggrieved by the same the appellants are before us by way of appeal.

We have heard the learned advocates for the parties at length.

It could be seen that the revision petition was filed under the provisions of Central Sales Tax Act, 1956 on 18th March, 2014 challenging the order passed by the Senior Joint Commissioner, Kolkata South Circle dated 31st January, 2014. Nearly after elapse of two years from the date of filing the revisional petition, the same was taken up for hearing and accordingly an ex parte order was passed by the Revisional Authority on the ground that the appellant had been intimated about the date of hearing but they did not respond. It is the contention of the revenue that no further opportunity was required to be granted to the dealer. Thus, the revisional application was dismissed without examining the merits of the matter. The explanation offered by the appellants with regard to non-appearance on the date of hearing is that the notice was not sent to the email address of the appellant but was sent to the personal email account of their Chartered Accountant. In our considered view, even assuming that revision petition was filed by the Chartered Accountant or their authorized representative but in the absence of vokalatnama notice is required to be sent to the party concerned. Of course there are certain exceptions to this rule which we need not ponder much in the instant case as we are satisfied that the appellants should be entitled to an opportunity of being heard so that the matter can be decided by the Fast Track Revisional Authority on merits.

In the result, the appeal is **allowed** and the order passed in the writ petition is set aside and the order passed by the Revisional authority dated 10.11.2016 is set aside and the matter is remanded back to the Fast Track Revisional authority for fresh consideration. In the event, the case papers are not available with the Revisional Authority the appellant shall be directed to reconstitute the papers and an opportunity of personal hearing be afforded to the appellant and a fresh order be passed on merits and in accordance with law. The Revisional Authority is directed to take on file the revision application within three weeks from the date of receipt of the server copy of this order and complete the proceeding within three weeks thereafter.

Consequently, the connected application also stands disposed of.

There shall, however, no order as to costs.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)

RP/Amitava (AR. CT.)