Item No.2.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

HEARD ON: 22.12.2022

DELIVERED ON:22.12.2022

CORAM:

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

AND

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T No.1935 of 2022
with
I.A. No.CAN 1 of 2022

Goutam Kundu.
Vs.
Union of India & Ors.

Appearance:-

Ms. Sweta Mukherjee, Mr. Arup Sarkar	**...**	**for the appellant.**
Mr. Shaunak Ghosh	**....**	**for the Union of India.**
Mr. Kaushik Dey, Ms. Ekta Sinha	**...**	**for the respondents.**

<u>JUDGMENT</u>

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

1. This intra-Court appeal by the writ petitioner is directed against the order dated 29th November, 2022 in W.P.A. 25040 of 2022 by which the learned Single Bench did not grant any interim order. The writ petition was filed by the appellant challenging the cancellation of the registration under the provisions of the CGST Act, 2017 dated 28th May, 2019 and the order passed by the Joint Commissioner (Appeals) dated 9th November, 2022 rejecting the appeal as time-barred. Aggrieved by the direction of the learned Writ Court only to file affidavit-in-opposition without granting an interim order, the appellant is before us by way of filing this appeal.

2. We have heard Ms. Sweta Mukherjee, learned Advocate appearing for the appellant and Mr. Kaushik Dey, learned senior standing counsel for the respondents.

3. After elaborately hearing the learned Advocates for the parties, we are of the view that the conduct of the dealer initially in not filing the returns cannot be appreciated but, however, Ms. Sweta Mukherjee, learned Advocate appearing for the appellant, submits that her client had filed few of the returns and her client is ready and willing to file the remaining returns after complying with all the formalities under the Act

and one opportunity may be granted to the appellant to regularise the mistake, which had been committed.

4. Considering the peculiar facts and circumstances of the case, we are of the view that the registration should be allowed to be restored and the appellant should be permitted to file his returns. Otherwise it is not only the appellant would be affected but the interest of the revenue also would get affected. For such reason, we are inclined to grant the following reliefs.

5. This appeal and connected application along with the writ petition stand disposed of by granting 30 days' time from the date of receipt of the server copy of this order to the appellant to file all the pending returns after complying with all the legal formalities required to be complied with under the Act and if the same is done, the authority concerned shall restore the registration of the appellant.

6. This order has been passed considering the peculiar facts and circumstances of the case and shall not be treated as a precedent. Needless to state that if any dues are payable by the appellant, they also have to be cleared by the appellant to enable the registration to be restored.

7. There shall be no order as to costs.

8. 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)