

Item no. 29

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice T.S. Sivagnanam
And
The Hon'ble Justice Prasenjit Biswas**

**MAT 667 of 2020
with
IA No. CAN 1 of 2020**

Sunita Jalan
vs.
Assistant Commissioner, Beliaghata Charge & ors.

For the Appellant : Mr. Suryaneel Das

For Respondent : Mr. A. Ray
Mr. T.M. Siddiqui
Mr. D. Ghosh
Mr. V. Kothari

Heard on : 01.09.2022

Judgment on : 01.09.2022

T.S. Sivagnanam J.:

- 1) This intra-Court appeal is directed against the order dated 16.09.2020 passed in WPA 6311 of 2020. The appellant had

filed the writ petition challenging the order canceling the appellant's registration under the provisions of West Bengal Goods and Services Tax Act dated 4th February, 2022. The learned Single Judge in the impugned order has recorded a specific finding that no opportunity of hearing was granted to the appellant prior to issuance of the order of cancellation. The learned Single Judge has also observed that the order of cancellation of registration is a non-speaking order. However, the writ petition was dismissed on the short ground that though the order of cancellation was passed on 4th February, 2020 but the writ petition has been filed in August, 2022.

- 2) In our considered view that if the order of cancellation of registration has been passed in violation of the principles of natural justice and it is a non-speaking order, the delay in approaching this cannot be a sole reason for non-suit in the appellant. Therefore, we are of the view that the appellant should afford a reasonable opportunity to put forth her case and the authority should pass a speaking order after affording an opportunity of hearing to the appellant.

- 3) On the said short ground we are inclined to allow this appeal. Accordingly, the appeal is allowed and the order passed in the writ petition is set aside. Consequently, the order of cancellation of registration dated 4th February, 2020 is set aside and the show cause notice for cancellation of registration dated 4th February, 2020 stands restored. The authority concerned is directed to issue another notice indicating the time frame within which the appellant should submit her reply. This notice shall be issued by the authority within 10 days from the date of receipt of the server copy of this order. Thereafter, the appellant shall be granted 30 days therefrom to reply and after which the appellant shall be heard in person and pass a reasoned order on merit in accordance with law.
- 4) In the light of the above MAT 667 of 2020 along with CAN 1 of 2020 are **disposed of**.
- 5) 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.)

(Prasenjit Biswas, J.)

RP/AN