

Item No.8.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

HEARD ON: 13.03.2023

DELIVERED ON: 13.03.2023

CORAM:

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

AND

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 39 of 2023

With

I.A. No.CAN 1 of 2023

Ankit Agarwal & Anr.

Vs.

The Assistant Commissioner, State Tax, Jorasanko Charge and Ors.

Appearance:-

Mr. Biswajit Mukherjee,

Mr. Sandip Choraria,

Mr. Sukalpa Seal

....

for the appellants

Mr. T. M. Siddique,

Mr. Debasish Ghosh,

Mr. N. Chatterjee

...

for the State.

JUDGMENT

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

1. This intra-Court appeal by the writ petitioners is directed against the order dated 29th November, 2022 in WPA No.24899 of 2022. By the said order, the writ petition was directed to be listed for final disposal in the month of February, 2023. However, the Court did not grant any interim order. The appellants being aggrieved by such an order, have filed the present appeal.

2. We have elaborately heard Mr. Biswajit Mukherjee, learned counsel for the appellants duly assisted by Mr. Sukalpa Seal, learned Advocate and Mr. Debasish Ghosh, learned standing counsel for the respondents / State.

3. The short issue, which falls for consideration in this appeal was whether the cancellation of the registration granted to the appellants under the provisions of the WBGST Act, 2017 was just and proper and whether the appellate authority was right in upholding the order of cancellation of the registration. After having carefully perused all the material documents placed in this appeal, we find that the show cause notice, which was issued to the appellants is devoid of any material and is absolutely vague. The appellants have not been

informed as to what was the alleged fraud and alleged willful mis-statement made by the appellants. The appellants denied the allegations. However, the authority confirmed the proposal of cancellation by a single line order once again without any reason.

4. The appellants applied for revocation of such order, which was once again rejected by a non-speaking order. When the matter was carried on appeal to the appellate authority, certain fresh facts have been brought in and an elaborate order has been passed by the appellate authority. It is no doubt true that an appellate authority or any administrative or quasi-judicial authority is expected to give detailed reasons to support its conclusion. Nevertheless, the authority has to consider the aspect as to whether the original authority had, at the first instance assigned any reason in support of its conclusion.

5. On examining the order passed by the original authority, we find that the same is devoid of any reason. If that be so, the appellate authority ought to have set aside such an order and remanded the matter back to the original authority instead of taking the trouble of trying to validate the order with certain

reasons by bringing in fresh facts. In any event, the entire issue, which is the subject matter of challenge has become academic as the appellants after having purchased the property in the 3rd Floor, in Door No.119, Cotton Street, Kolkata-700 007 had applied to the authority for amendment of the registration by application dated 19th March, 2021.

6. It appears that the application was considered, inspection was conducted and thereafter an order was passed on 24th March, 2021 amending the registration granted to the appellants by incorporating the new address viz., 3rd Floor in the same building. Therefore, assuming that there was some discrepancy in the document, which was uploaded at the first instance when the registration was obtained showing the particulars at the 1st floor, such issue will no longer survive on or after the amendment of the registration certificate showing the new address.

7. Thus, for the above reasons, we are of the view that the registration granted to the appellants has to be restored. We place on record the submission made by the learned Advocate for

the appellants that returns have been promptly filed and all taxes and other levies have been promptly remitted.

8. In the result, the appeal and the writ petition are disposed of and the order passed by the appellate authority and the original authority are set aside and the original authority is directed to restore the appellants' registration of the address at 3rd Floor, 119 Cotton Street, Kolkata - 700 007 within a period of seven days from the date of receipt of the server copy of this judgment and order.

9. There shall be no order as to costs.

10. 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)