

28.2.2023

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WPA 2499 of 2023

Sushil Kumar Kaushik

Vs

Superintendent of CGST & CX, Range-II, Dankuni
Division, Howrah CGST Commissionerate & Ors.

Mr. Sandip Choraria,

Mr. Rajarshi Chatterjee

... For the Petitioner.

Mr. Bhaskar Prosad Banerjee,

Mr. Abhradip Maity

... For the Respondents.

Heard learned Advocates appearing for the parties.

Petitioner has challenged the impugned adjudication order dated 24th March, 2022 passed by the CGST Authority concerned which is an appealable order under the Statute. The main grievance in this writ petition raised by the petitioner against the aforesaid impugned order is that the same is not a speaking one and does not contain satisfactory reasons in rejecting the petitioner's objection against the show-cause-notice in question. I have perused the aforesaid impugned order, which is a detailed reasoned order. There is a difference between an order containing no reason at all and an order having reasons and discussions which is not satisfactory according to the petitioner. The Writ Court under Article 226 of the Constitution of India should not interfere with the order like this where the order has been passed after issuing show-cause-notice giving

opportunity to the petitioner to file reply and opportunity of hearing and furthermore, in my considered view the order passed by the respondent authority concerned is not having inherent lack of jurisdiction and it is patently not contrary to any provision of the Statute. Writ Court also should not interfere with the facts and findings by an Adjudicating Authority and substitute the same with its own findings by acting as an Appellate Authority over such adjudication order, more so, when the impugned order is an appealable order and the Appellate Authority has a wider jurisdiction to go both into facts and appeal and to appreciate the evidence.

In view of the discussion made above, this writ petition being WPA 2499 of 2023 is dismissed on the ground of availability of alternative remedy. Dismissal of this writ petition will not be a bar on the part of the petitioner to agitate all the points before the Appellate Authority, which have been raised in this writ petition. If the appeal is filed by the petitioner before the Appellate Authority concerned within 15 days from date, in that event the Appellate Authority shall dispose of the same on merits by considering the limitation if any.

(Md. Nizamuddin, J.)

