Item no. 04

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

MAT 242 of 2023

with

IA No. CAN 1 of 2023

Bluemotion Technologies (India) Private Limited

vs.

Deputy Commissioner of State Tax, Beliaghata Charge & Ors.

Appearance:

For the Appellants	:	Mr. Anil Kumar Dugar Mr. Rajarshi Chatterjee
For the state	:	Mr. A. Ray Mr. T. M. Siddiqui Mr. D. Ghosh Mr. N. Chatterjee
Heard on	:	22.03.2023
Judgment on	:	22.03.2023.

T.S. Sivagnanam J.:

1. This intra-Court appeal filed by the writ petitioner is directed against the order dated 13th January, 2023 passed in WPA 197 of 2023 by which the learned Single Bench declined to grant any interim order.

2. The learned advocates for the parties pray that the writ petition can be taken up for consideration along with the appeal. Accordingly, the writ petition as well as the appeal is taken up for hearing to be decided.

3. The appellant is aggrieved by the order passed by the appellate authority, namely, the Joint Commissioner of State Tax, Chowringhee Circle dated 18th November, 2022 by which the appeal filed by the appellant challenging the order of cancellation of registration under the provisions of WBGST Act, 2017 was rejected. The dispute/controversy lies in a very narrow compass. The appellant had the benefit of certificate of registration under the provisions of WBVAT Act on 19th December, 2012. At the relevant point of time, the principle place of business of the appellant was at Madhav Dutta Garden Lane, Kolkata-700010. Subsequently, the appellant appears to have changed the place of business to premises no. 63/22, Simla Sat Ghara Road, Rishra, P.O.-Pravashnagar, Hooghly in Ward no.18. The appellant has produced certain documents to show that the business was carried on in the said premises no. 63/22, Simla Sat Ghara Road, Rishra. However, it appears that a mistake had occurred while obtaining the renewal of the certificate of enlistment from the Rishra Municipality and instead of premises no. 63/22, Simla Sat Ghara Road, Rishra, it was shown as 63/45, Simla Sat Ghara Road, Rishra. The appellant said to have filed a declaration on 11th November, 2022 before the Chairman of the said municipality requesting to rectify the defect and mention the original

address as premises no. 63/22, Simla Sat Ghara Road, Rishra in the certificate of enlistment and it was submitted at the time of obtaining the trade license and also in the ROC documents and Income Tax document. The said application is stated to be still pending before the municipality. In the meantime, the authority under the WBGST Act had initiated proceedings and ultimately the registration stood cancelled on the ground of discrepancy. In our considered opinion, the State Tax Authority cannot be blamed as admittedly there is a different premises number in the certificate of enlistment issued by the municipality. Therefore, until and unless that is rectified, the authority under WBGST Act is bound to come to the conclusion that the business is not carried in the premises mentioned in the certificate of enlistment. Therefore, the only option available to the appellant is to approach the municipality and get the necessary rectification/correction done in the certificate of enlistment and thereafter approach the authority under the WBGST Act.

4. In the result, the appeal as well as the writ petition stand **disposed of** and consequently the connected application also stands **disposed of** by directing the appellant to make a fresh application to the Chairman of the Rishra Municipality seeking for rectifying the defect in mentioning the premises number which according to the appellant should be premises no. 63/22, Simla Sat Ghara Road, Rishra and not the premises no. 63/45, Simla Sat Ghara Road, Rishra. The said Municipality is directed to consider the said application and pass necessary orders for making rectification if it is found that the

appellant's claim is justified and correct. After the Municipality issues the necessary certificate of enlistment, we grant liberty to the appellant to apply to the registering authority under the WBGST Act who shall take note of the fresh certificate of enlistment issued by the Municipality and if it is found to be in order restore the appellant's registration. The registering authority under the WBGST Act shall consider the application filed by the appellant along with the certificate issued by the Municipality within 15 days from the date receipt of such application.

5. There will be no order as to costs.

6. Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)

RP/Amitava (AR. CT.)