Item No.3.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

HEARD ON: 16.03.2023

DELIVERED ON: 16.03.2023

CORAM:
THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 279 of 2023
With
I.A. No.CAN 1 of 2023

Surojit Das.
Vs.
Deputy Commissioner of State Tax, Goods and Services Tax, Bureau of Investigation, (South Bengal, Head Quarters) & Ors.

Appearance:-

Mr. Pranit Bag,
Mr. Ghanshyam Jha .... for the appellant

Mr. T. M. Siddique,
Mr. Debasish Ghosh,
Mr. Nilotpal Chatterjee ... for the State of W.B.

JUDGMENT

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

1. This intra-Court appeal filed by the writ petitioner is directed against an order dated 3rd February, 2023 in I.A. No.CAN

1 of 2023 in WPA No.24456 of 2022. In the said application, the appellant sought for release of the goods, which was detained subject to the condition that the appellant pays penalty at 200% in terms of Section 129 (1)(a) of the CGST/WBGST Act. In fact, the prayers sought for in the writ petition is also more or less identical. The learned Single Bench directed affidavit-in-opposition to be filed to the application, which has been filed and a reply has also been filed by the appellant. The goods, which have been detained is areca nuts and according to the department, the entire transaction is a fake transaction. Both the consignee and the consignor are also fake parties and therefore, the goods have been detained.

2. The adjudication has commenced and culminated in an order, which is questioned in the writ petition wherein also there is a relief sought for release of the goods. In any event, detaining the goods will be counter productive as the goods are perishable in nature and as the appellant without prejudice to his rights is willing to pay 200% of the penalty amount in terms of Section 129(1)(a) of the Act, this Court is of the view that the goods can be released subject to such condition and the release shall abide by the orders that are to be passed in the writ petition.

3. In the light of the above, the appeal and the application being I.A. No.CAN 1 of 2023 in WPA No.24456 of 2022 are disposed of with a direction to the appellant to pay 200% of the penalty in terms of Section 129(1)(a) of the CGST / WBGST Act and if such payment is made, the concerned authority shall release the goods within a period of three days thereafter.

4. It is made clear that the release of the goods shall be subject to the final orders to be passed in the writ petition.

5. Needless to state that if any investigation has been commenced by the department, the same can be taken to the logical end.

6. There shall be no order as to costs.

7. 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)