

Item no. 09

IN THE HIGH COURT 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

MAT 403 of 2023
with
IA NO.CAN 1 of 2023

Mohammad Obaidullah
Vs.
Assistant Commissioner of State Tax,
Goods and Services Tax, Bureau of Investigation
(North Bengal) & Ors.

Appearance:

For the Appellant : Mr. Saurabh Sankar Sengupta
Mr. Indranil Biswas

For the State : Mr. A. Ray, Ld. GP
Mr. T.M. Siddiqui
Mr. Debasis Ghosh
Mr. D. Sahu

For the Union of India : Ms. Pranati Saha (Das)

T.S. Sivagnanam J.:

1. This intra-Court appeal by the writ petitioner is directed against the order dated 27th February, 2023 passed in W.P.A. 2427 of 2023. By the

said order, the learned Single Bench held that no interim order can be passed in the writ petition as the issue involved in the writ petition requires affidavit from the respondents.

2. In our view, the observation made by the learned Single Bench is perfectly justified and we have come to such a conclusion after hearing the learned advocates appearing for the parties for a considerable length of time.

3. The learned advocate appearing for the appellant submitted that the writ petition has been directed to be listed in the month of June, 2023 and the matter may be heard a little earlier.

4. The issue to be decided first in the writ petition is as regards the *locus standi* of the appellant to prefer an appeal before the appellate authority against the penalty order. If this is decided and if the Court holds that the appellant has got the *locus standi*, the matter requires to be remanded back to the appellate authority for a fresh decision.

5. Since as observed by the learned single Bench, affidavit in opposition is required, we direct the appropriate respondent to file affidavit in opposition not later than 31st March, 2023; reply thereto, if any, to be filed not later than 6th April, 2023.

6. The Registry is directed to list the writ petition before the appropriate Bench on 17th April, 2023.

7. With the above observations, the appeal and the connected application are disposed of.

8. There shall, however, be no order as to costs.

9. 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.)

RP/Pallab (AR. CT.)