18.10.2023
Item No.9
gd/ssd

MAT/1361/2023
IA NO: CAN/1/2023
MURTAZA B KAUKAWALA
VS
STATE OF WEST BENGAL AND ORS.

Mr. Himangshu Kumar Ray,
Mr. Subhasis Poddar,
Mr. Amit Saha,
Ms. Shiwani Shaw
..for the Appellant.

Md. T.M. Siddique,
Mr. T. Chakraborty,
Mr. S. Sanyal
..for the State.

1. This intra court appeal by the writ petitioner is directed against the order passed on 18th July, 2023 in WPA 16299 of 2023 by which the learned Single Bench refused to grant any interim order to the pending writ petition.

2. By the said order, the writ petition was entertained.

3. The petitioner was aggrieved by an order passed by the appellate authority under the provisions of the WBGST Act rejecting the appeal as time barred.

4. The appeal was filed against the order passed by the Assistant Commissioner making the appellant liable for payment of GST. The principal ground on which the appeal has filed before the appellate authority was on the ground of violation of principles of

natural justice and that the assessee was not provided any opportunity. Further, it is contended that only the summary of the show cause notice was furnished. However, the show cause notice was not communicated to the petitioner. Furthermore, the opportunity of personal hearing was not granted.

5. The learned Government counsel appearing for the respondent State submitted that though opportunity was granted by the assessing officer, the appellant did not avail the same.

6. Considering the facts and circumstances of the case and the allegations which have been made against the appellant, we are of the view that the matter can be remanded back to the Assistant Commissioner, N.S. Road & M.R. Charge to consider the case afresh after affording an opportunity to the appellant/writ petitioner.

7. With the above observations, this appeal as well as the writ petition stands disposed of and the order passed by the appellate authority is set aside and the order passed by the Assistant Commissioner under Section 74 of the GST Act, 2017 dated 09.02.2022 is directed to be treated as a show cause notice and the appellant is directed to submit his reply within three weeks from the date of receipt of the server copy of this order after which an opportunity of personal hearing

shall be granted to the appellant and fresh orders be passed on merits and in accordance with law.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)