

04 17.11.2023
Ct. No. 01
AN

MAT 1543 of 2023
(CAN 1 of 2023)

Bhagwati Enterprise & ors.
Vs.
The State Tax Officer, Bowbazar Charge,
Directorate of Commercial Taxes & ors.

Mr. Anil Dugar

... for the appellants

Mr. Anirban Ray
Mr. T. M. Siddiqui
Mr. T. Chakraborty
Mr. Saptak Sanyal

... for the State

1. We have heard learned counsel for the parties at length.

2. This intra court appeal filed by the writ petitioners is directed against the order dated 17.07.2023 passed by the learned Single Judge in WPA 15757 of 2023 dismissing the writ petition challenging an order passed by the Assistant Commissioner of WBGST dated 10.04.2023. The appellant had earlier approached this Court and filed a writ petition being WPA 19741 of 2022 challenging the order of cancellation of its registration dated 08.08.2022 on account of violation of principles of natural justice. The appellant was successful in the said writ petition and the writ petition was allowed by order dated 19.09.2022 setting aside the order of cancellation and directed fresh opportunity to be provided to the appellant by way of a personal hearing. This order and direction has been complied with and the authority thereafter proceeded to

pass final orders.

3. After elaborately hearing the submissions of the learned counsel for the parties, we find that to adjudicate the correctness of the order impugned in the writ petition, disputed questions of fact have to be gone into which cannot be done in a writ petition. Therefore, the learned Single Judge rightly declined to entertain the writ petition on the availability of the alternate remedy as against the order impugned in the writ petition.

4. Thus, we find no grounds to take a different view in the matter and the appeal fails and is hereby **dismissed**. The appellant is directed to file an appeal before the appellate authority within 30 days from the date of receipt of the server copy of this order, if such appeal is filed within the time so permitted, the appeal shall be entertained by the appellate authority without rejecting the same on the ground of limitation.

5. Consequently, the connected application also stands dismissed.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)