IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction

5 13.09.2023
Ct. No. 2
D.Ghosh

WPA/753/2023
M/S RAJU BARMAN
VS
ASSISTANT COMMISSIONER OF COMMERCIAL TAXES, COOCH BEHAR CHARGE AND ANR

Ms. Jagriti Mishra,
Mr. Keshab Kumar,
Ms. Mrinmayee Das,
Mr. Raj Kumar Mitra,
..for the petitioner

Mr. Hirak Barman, Adv.
......for the State.

The grievance of the writ petitioner is directed against an order for cancellation of registration dated 26th September, 2023.

A point of maintainability is raised on behalf of the respondent authorities. It is submitted that the petitioner has an alternative and efficacious remedy under Section 107 of the West Bengal Goods and Service Tax Act, 2017.

The brief facts culminating in filing of this writ petition are that the petitioner was served a show-cause notice dated 26th September, 2022 whereby the petitioner was directed to furnish a reply within seven working days from receipt of the notice. By an order dated 26th September, 2022, the respondent authorities cancelled the registration in favour of the petitioner.

It is submitted on behalf of the petitioner that there is a reference to a reply dated 15th October, 2022 in the order dated 26th September, 2022. However, no such reply was filed by the petitioner.

On behalf of the respondent authorities it is submitted that the impugned order also states that no reply has been received to the show-cause notice and this is also recorded in the order. There is an obvious typographical error and the petitioner is taking advantage of the same. In any event, this point could have been taken before the Appellate Authority.

Be that as it may, there is a clear statutory embargo in the filing of this writ petition. Against the impugned order, there is the remedy of a statutory appeal available under section 107(1) of the West Bengal Goods and Service Tax Act, 2017, which admittedly the petitioner has not availed of.

Ordinarily, the Writ Court is hesitant in exercising discretion when an efficacious alternative remedy is available unless there are exceptional circumstances warranting to do so.

Since there are no exceptional circumstances warranting the Writ Court to interfere with the impugned order, WPA/753/2023 stands dismissed on the ground that the petitioner has failed to avail the statutory remedy of appeal.

With the aforesaid directions, WPA/753/2023 stands disposed of.

(Ravi Krishan Kapur, J)