14.05.2024
Item No.15
gd/ssd

MAT/185/2023
IA NO: CAN/1/2023
M/S. UNITECH AUTOMOBILE
VS
UNION OF INDIA AND ORS.

Mr. Abhratosh Majumder,
Mr. Tarun Chatterjee,
Mr. Pradyot Banerjee,
Mr. Raju Mondal
..for the Appellant.

Mr. Uday Sankar Bhattacharyya
..for the Respondents.

1. This intra court appeal by the writ petitioner is directed against dismissing the writ petition challenging an adjudication order dated 02.11.2020 on the ground that there has been violation on the Circular Instruction dated 26th October, 2021.

2. On going through paragraph 3 of the said circular it is noted that in cases where notices have already been issued, the adjudicating authorities are expected to pass a judicious order after appreciation of facts and submission of the noticee.

3. In the instant case, admittedly the show cause notice was issued prior to the Circular Instruction dated 26th October, 2021.

4. In any event, the case involves adjudication to the disputed question of fact which cannot be gone into in a writ petition.

5. Therefore, the appellant has to necessarily avail the statutory appellate remedy before the Commissioner of Central Tax (Appeals).

6. Accordingly, the appeal is dismissed by giving liberty to the appellant to file the appeal before the appellate authority and if such appeal is filed within a period of 60 days from the date of receipt of the server copy of this order, the appellate authority shall entertain the appeal without reference to limitation.

7. Needless to state that the appellate authority while considering the appeal petition shall in no manner be influenced by the observations made by the learned Single Bench in the impugned order passed in the writ petition.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)