

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 30.01.2024

DELIVERED ON: 30.01.2024

CORAM:

**THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND**

THE HON'BLE MR. JUSTICE SUPRATIM BHATTACHARYA

M.A.T. 212 of 2023

With

I.A. No. CAN 1 of 2023

Pradip Kumar Jaiswal

Vs.

**The Assistant Commissioner of State Tax, Howrah and Kadamtala Charge &
Ors.**

Appearance:-

Mr. Swapnesh Mallik

.....for the appellant

Mr. Anirban Ray, Ld. GP

Mr. T.M. Siddique

Mr. Tanoy Chakraborty

Mr. S. Sanyal

.....for the respondents/State

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal by the writ petitioner is directed against the order dated 8th December, 2022 in W.P.A. 26225 of 2022 by which the writ petition filed by the appellant challenging an adjudication order passed under Section 74 of the W.B.G.S.T. Act, 2017 dated 29th March, 2022 was dismissed on the ground that the appellant had approached the learned writ court belatedly.

2. As could be seen from the material papers annexed in the stay petition, though notices were served on the appellant under Section 151(2) of the Act dated 11th May, 2021 and 19th may, 2021, summoning the appellant to give evidence in connection with the enquiry to be conducted, it is stated that the appellant in response to the summons produce certain documents. Subsequently show-cause notice dated 25th February, 2022 was issued and the appellant was called upon to submit his reply. Since the appellant did not submit his reply, an order was passed on 29th March, 2022 in which a demand has been raised. The said order was not put to challenge immediately, which resulted in a garnishee notice being issued by the department. At that stage, the writ petition was filed.
3. Considering the peculiar facts and circumstances of the case, we are of the view that one more opportunity can be granted to the appellant to submit his reply to the show-cause notice dated 25th February, 2022 so that the adjudicating authority can pass orders on merits and in accordance with law.
4. Accordingly, the appeal along with connected application (I.A. No. CAN 1 of 2023) stand disposed of by setting aside the order passed in the writ petition with a direction to the appellant to submit his reply to the show-cause notice dated 25th February, 2022 within a period of three weeks from the date of receipt of server copy of this order.
5. On receipt of the reply, the adjudicating authority shall afford an opportunity of personal hearing to the appellant or his authorised

representative and pass a reasoned order on merits and in accordance with law.

6. The appellant is granted liberty to file an application for lifting of the bank attachment before the adjudicating authority, which shall also be decided in accordance with law.
7. No costs.
8. 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)
CHIEF JUSTICE

I agree.

(SUPRATIM BHATTACHARYA, J.)