

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

HEARD ON: 16.07.2024
DELIVERED ON: 16.07.2024

CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

F.M.A. 509 of 2024
With
IA No. CAN 1 of 2024
Samir Sadhukhan

Versus
Assistant Commissioner of CGST & CX, Shyambazar Division, Kolkata North
Commissionerate & Ors.

Appearance:-
Mr. Sandip Choraria
Mr. Akshat Agarwal

.....For the Appellant

Mr. K. K. Maiti
Mr. Saurov Mallick
Mr. Abhradip Maiti

.....For the CGST Authority

Mr. Om Narayan Rai

.....For the Union of India

JUDGMENT

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

1. In this intra-Court appeal filed by the writ petitioner is directed against the order dated 3rd January, 2024 in W.P.A. No.28381 of 2023 dismissing the writ petition, which was filed challenging the recovery notices dated 15th September, 2023 and 16th October, 2023, arising out of an order of adjudication dated 22nd March, 2023.
2. The appellant would point out that the show-cause cum demand notice dated 24th December, 2020 was received by the appellant and the reply was also submitted on 25th March, 2021. However, the adjudication order was not served on the appellant and he came to know of it only when the recovery notices were issued.
3. In the writ petition, the learned Single Bench pointed out that the adjudication order was despatched to the very same address to which the show-cause cum demand

notice was served as well as the recovery notices were served. Therefore, the writ petition was dismissed.

4. Before us, the learned advocate for the appellant submitted that the appellant's right of filing a statutory appeal may not be curtailed and an opportunity may be granted to the appellant to file an appeal.
5. Thus, without going into the controversy as to whether the adjudication order dated 22nd March, 2023 was served on the appellant, we propose to give liberty to the appellant to prefer an appeal before the Commissioner (Appeals) – I, G.S.T. Bhawan, Kolkata and the appellant will be permitted to file the appeal with the photostat copy of the adjudication order dated 22nd March, 2023, which was handed over to the appellant when the writ petition was heard.
6. With these above observations/directions, appeal and the connected application (IA No. CAN 1 of 2024) stand disposed of by giving liberty to the appellant to file an appeal against the adjudication order dated 22nd March, 2023 before the appropriate appellate authority by enclosing the photostat copy of the adjudication order and if such appeal is filed within a period of three weeks from the date of receipt of server copy of this order and upon compliance of the pre-deposit conditions, the appellate authority shall entertain the appeal without reference to limitation, hear the parties and take a decision on merits and 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.

(HIRANMAY BHATTACHARYYA, J.)