

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

HEARD ON: 14.05.2024

DELIVERED ON: 14.05.2024

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

**M.A.T. 764 of 2024
With
I.A. No. CAN 1 of 2024**

**Shri Narayan Prasad Sharma
Vs.
Union of India & Ors.**

Appearance:-

**Mr. Debasish Ghosh
Mr. Lalit Baid
Ms. Saberi Saha**

.....for the appellant

**Mr. K.K. Maiti
Ms. Aishwarya Rajyashree**

**.....for the respondent nos.
1 & 2**

**Mr. Om Narayan Rai
Mr. Tapan Bhanja**

.....for the Union of India

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 13th March, 2024 in W.P.A. 3019 of 2024. In the said writ petition, the

appellant had challenged an order of adjudication passed by the Joint Commissioner of Customs (Port), Custom House, Kolkata dated 11th December, 2022. Prior to this, the appellant had challenged the show-cause notice in W.P.A. 22620 of 2022, which is still pending before this Court and there is no interim order. Subsequently, the writ petitioner challenged the personal hearing intimation in that proceeding also. There is no such allegation. Thereafter, the adjudicating authority has given five opportunities for personal hearing, which the appellant did not avail. Ultimately, the order of adjudication has been passed.

2. Before the learned Single Bench, the appellant/writ petitioner sought for extension of time by four weeks for filing the statutory appeal. This has been recorded by the learned Single Bench.
3. In any event, the issues involved in the case requires adjudication into facts, much of which is disputed. Apart from that, there is an allegation of mis-declaration, which, according to the appellant, is not against the appellant but other co-noticees.
4. In any event, in a writ proceeding based on notice, these disputed questions of fact cannot be gone into. Therefore, the learned Single Bench was right in relegating the appellant to avail the statutory remedy of appeal. The time granted by the learned Single Bench for filing the appeal before the appellate authority is extended by four weeks from the date on which the server copy of this order is obtained by the appellant.
5. With the aforesaid observations, the appeal and the connected application stand dismissed.
6. No costs.

7. 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.)

Pallab/KS AR(Ct.)