

Form No. J.(2)
Item No.5

**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. 772 of 2024
With
IA No. CAN 1 of 2024**

**Hari Lal Shaw
Vs.
State of West Bengal & Ors.**

Appearance:-

**Mr. Suryaneel Das
Mr. Aditya Mondal**

.....for the appellant

**Mr. Anirban Ray, Ld. G.P.
Md. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal**

.....for the State

JUDGMENT

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

1. The appellant is aggrieved by the dismissal of the writ petition filed challenging the adjudication order dated 17th May, 2022 passed by the Assistant Commissioner of State Tax, Posta Bazar and Burtola Charge.
2. The case of the appellant is that the adjudication order was not served and the adjudicating authority did not afford an opportunity of personal hearing and they came to know about the order of adjudication only after an attachment notice was issued to their bankers.

3. The learned Single Bench has dismissed the writ petition on the ground that the appellant did not avail the statutory appellate remedy nor he approached the Court within a reasonable time.
4. As could be seen from the adjudication order dated 17th May, 2022, the appellant had filed his written submissions on 17th May, 2022. Thereafter, it appears that no notice of personal hearing was served on the appellant. These being disputed questions of fact, cannot be gone into in a writ petition. In any event, the appellant cannot be left remediless and considering the fact that the order of adjudication dated 17th May, 2022 still continues to remain a paper order, no prejudice will be caused to the revenue if the appellant is permitted to file a statutory appeal before the appellate authority as at the time of filing of the statutory appeal, mandatory pre-deposit condition has to be complied with.
5. Therefore, appeal and the connected application (IA No. CAN 1 of 2024) stand disposed of giving liberty to the appellant to file a statutory appeal before the appellate authority within a period of 30 days from the date of receipt of server copy of this order and subject to compliance of the mandatory pre-deposit condition.
6. The appellate authority shall afford an opportunity of personal hearing to the authorised representative of the appellant and decide the appeal petition 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.)

Pallab/KS AR(Ct.)