

21.08.2024
Item No.
AD 16
Saswata

W.P.A. 15504 of 2024

**Delta Goods Private Limited & Anr.
versus
Union of India & Ors.**

Mr. Himangshu Kumar Ray
Ms. Shiwani Shaw
Mr. Subhasis Podder
Mr. Amit Saha
Mr. Piyas Chowdhury

...For the petitioners

Mr. Anirban Ray, Ld. GP
Mr. Md. T.M.Siddiqui
Mr. Tanoy Chakraborty
Mr. S. Sanyal
Mr. D.Sahu
Mr. Avra Majumder

...For the State

1. Affidavit of service filed in Court today is retained with the record.
2. Originally, when the instant writ petition was filed the petitioners complained that the appellate authority, without giving an opportunity of hearing to the petitioners, had disposed of the appeal. Subsequently, on 13th August 2024 Mr. Ray, learned advocate appearing for the petitioners had submitted that though the petitioners had been served with a notice via email communication prior to disposal of the appeal, such service of notice does not have the sanction of law, as the same had not been uploaded in the portal. In support of his contention Mr. Ray, had relied on a notification published on 30th March 2022 by the Ministry of Law and Justice which according to him seeks amendment of Section 146 of the WBGST / CGST Act, 2017 (hereinafter referred to as the “said Act”).

3. This Court had taken assistance of Mr. Avra Mazumder, learned advocate. Mr. Mazumder by placing the aforesaid notification has submitted that the notification dated 30th March 2022 only seeks to amend the notification dated 23rd January 2018 and the same does not have the effect of amending the provisions of Section 146 of the said Act. By drawing attention of this Court to the provisions of Section 169 of the said Act, he has submitted that service of notice, decision, orders, summons or any other communication under the said Act may be served in the manner provided in Section 169 of the said Act.

4. From a perusal of the provision contained in Section 169 of the said Act it appears that one of the recognized manner and mode of service of summons / notice is by registered post or speed post or courier with acknowledgment due to the person to whom it is intended, inter alia, including the communication to his email address. In the instant case, the petitioner no.1 had duly been served with a notice in his email address.

5. Having regard thereto, I am of the view that the petitioners had failed to make out any case for interference. Admittedly, although the petitioners were notified as regards the date of hearing, yet the petitioners chose not to appear. Having not appeared before the appellate authority, the petitioners cannot thrust the burden on the appellate authority by, inter alia, contending that since, the notice was not uploaded in the portal, the petitioners had no adequate notice.

6. In view thereof, I find that there is no scope for interference in this writ petition. The writ petition being

WPA 15504 of 2024 is accordingly dismissed without any order as to costs.

7. This order shall, however, not stand in the way of the petitioners in availing statutory remedy, if so advised.

8. Before parting I record a note of appreciation for Mr. Majumder for ably assisting this Court.

9. All parties shall act on the basis of the sever copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)