03.12.2024
Item No.7
gd/ssd

FMA/1115/2024
LIMTON METALS LIMITED AND ANR.
VS
THE SUPERINTENDANT, LALBAZAR RANGE III
AND ORS.
IA NO: CAN/1/2024

Ms. Rita Mukherjee,
Mr. Abhijat Das,
Ms. Aratrika Roy
..for the Appellants.

Mr. Bhaskar Prosad Banerjee,
Mr. Abhradip Maity
..for the Respondents.

1. This intra court appeal by the writ petitioners is directed against the order dated 25th June, 2024 in WPA 11277 of 2024.

2. In the said writ petition the appellants had challenged an order of cancellation of the registration under the provisions of CGST Act, 2017 primarily on the ground that it is in violation of the principles of natural justice, devoid of reasons and unsustainable in law.

3. The learned Single Bench has disposed of the writ petition with certain observations.

4. As could be seen from the records appended to the appeal, a show cause notice was issued to the appellants on 19.01.2024.

5. Along with the show cause notice the department enclosed a communication received from

the Assistant Commissioner, Headquarters Anti Evasion CGST and CX, Kolkata North Commissionerate addressed to the Assistant Commissioner, BBD Bag-II Division, CGST & CX there was also a copy of a Panchnama wherein there were certain allegations.

6. The appellants received the show cause notice and submitted the reply on 31.01.2024 followed by another e-mail on the same date.

7. The authority has passed an order dated 31.01.2024 retrospectively cancelling the registration of the appellants.

8. We find from the impugned order dated 01.02.2024 that it is in statutory format being Form GST REG-19. However, the statutory format does not give any reasons as to why the appellants' registration has to be cancelled that too with retrospective effect from 18.12.2021.

9. The assessee would state that they have not received any enclosures along with Form GST REG-19.

10. This submission is taken on record, based on which the following order is passed.

11. As the assessee has submitted a reply to the show cause notice, it is for the authority to consider the reply and to record reasons in writing either accepting the reply or rejecting the contentions of the reply to the show cause notice. In other words, the

order should be a speaking order. Apart from that, the authority shall also give reason as to why the registration should be cancelled with retrospective effect as such cancellation may result in other serious consequences.

12. Therefore, we dispose of this appeal by setting aside the order dated 01.02.2024 in Form GST REG-19 and remanding the matter back to the Original Authority who is directed to afford an opportunity of personal hearing to the appellants assessee, peruse the document produced and take a fresh decision on merits and in accordance with law. If the authority is of the opinion that inspection of the place of business is required, he may do so and it can also be a surprise inspection.

13. This discretion is left to the authority.

14. The authority is directed to fix the date of personal hearing within a period of two weeks from the date on which the server copy of this order is received by the department.

15. For the above directions, the appeal stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)