Form No. J.(2)
Item No. 10

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

HEARD ON: 24.09.2024

DELIVERED ON: 24.09.2024

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

THE HON'BLE MR. JUSTICE BIVAS PATTANAYAK

M.A.T. 1799 of 2024
With
I.A. No. CAN 1 of 2024

Digital Abhiyan Private Limited & Anr.
Vs.
The Deputy Commissioner of Revenue,
Salt Lake Charge, WBGST & Ors.

Appearance:-
Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. Piyush Khaitan ....**for the appellants**

Mr. Anirban Ray, Ld. GP
Mr. T.M. Siddique
Mr. Tanoy Chakraborty
Mr. S. Sanyal ....**for the State**

<u>JUDGMENT</u>

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

1. This intra-Court appeal filed by the writ petitioners is directed against the order dated September 5, 2024 in W.P.A. 18140 of 2024 , by which the writ petition filed challenging the order passed under section 73 of the WBGST Act, 2017 (for brevity 'the Act') dated April 21, 2024 for the tax period from April 2018 to March 2019 was entertained.

2. The learned Single Bench while entertaining the writ petition held that there was no scope of passing the interim order and directed affidavits to be filed. Aggrieved by such order, the appellants have filed the present appeal.

3. We have heard the learned advocates for the parties.

4. The order of adjudication dated April 21, 2024 states that the appellants, though had annexed some invoices from some purported inward supplies, that alone would not suffice for availing the input tax credit as there are several other conditions enumerated under the law, which are required to be fulfilled simultaneously like genuinely receiving the supplies, making payment for the same and the impugned taxes being actually paid. Therefore, the appellants were non-suited and adjudication order was passed demanding tax as well as imposing penalty.

5. The appellants have also enclosed a bunch of invoices and also attempted to demonstrate the nature of transactions between the appellants and M/s. Google India Private Limited and submitted that the entire transaction is genuine and prays that one more opportunity may be granted to the appellants to produce all contemporaneous documents to establish the genuineness of receiving the supplies.

6. Considering the fact that the appellants have in their possession all relevant documents, this Court is of the view that one more opportunity can be granted to the appellants to go before the adjudicating authority. Accordingly, the appeal and the writ petition are disposed of remanding the matter back to the adjudicating authority for a fresh consideration.

7. The appellants shall file all additional submissions in the form of a reply to the allegations made in the show-cause notice annexing all documents in

their possession and enclose bank statement etc. to establish the genuineness of the inward supplies. After that, the adjudicating authority shall afford an opportunity of personal hearing to the authorised representative of the appellants and re-do the assessment in accordance with law.

8. Till such exercise is concluded, no coercive step shall be taken pursuant to the assessment order dated April 21, 2024.

9. However, it is made clear that the appellants should co-operate in the early disposal of the matter and shall not seek for any adjournment.

10. No costs.

11. 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.

(BIVAS PATTANAYAK, J.)

Pallab/KS AR(Ct.)