

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

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

HEARD ON: 23.04.2024

DELIVERED ON: 23.04.2024

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

**M.A.T. 1841 of 2023
With
IA No. CAN 1 of 2023
With
I.A. No. CAN 2 of 2023
Ranu Banerjee
Vs.
Union of India & Ors.**

Appearance:-

Mr. Sandip Choraria for the appellant

Mr. Bhaskar Prosad Banerjee

Mr. Abhradip Maity for the CGST Authorities

Mr. Tilak Mitra

.....for the Union of India

JUDGMENT

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

In Re.: I.A. No. CAN 2 of 2023

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

2. There is delay of 04 days in filing the appeal. We have perused the affidavit filed in support of the petition and we find that sufficient cause has been shown for not being able to prefer the appeal within the period of limitation.
3. I.A. No. CAN 2 of 2023 is allowed and the delay in filing the appeal is condoned.

In Re: M.A.T. 1841 of 2023

4. This intra-Court appeal by the writ petitioner is directed against the order dated 7th August, 2023 in W.P.A. 16591 of 2023 dismissing the writ petition filed challenging an adjudication order on the ground that an alternate remedy of appeal lies before the Customs, Excise and Service Tax Appellate Tribunal.
5. We have elaborately heard the submissions of the learned advocate appearing for the parties and carefully gone through the material papers annexed to the stay petition. We find that the reasoning given by the learned Single Bench was perfectly justified, more particularly when serious disputed questions of fact have to be examined. That apart, at the earliest point of time, the appellant had responded to the summons issued and a statement has also been recorded.
6. Therefore, we are of the view that the appellant should pursue the appellate remedy. Accordingly, the appeal is dismissed along with the connected application being I.A. No. CAN 1 of 2023.
7. The appellant is granted 60 days time from the date of receipt of server copy of this order to prefer an appeal before the tribunal and if the appeal is preferred within the said time, the learned tribunal is requested to entertain the appeal without reference to limitation.

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.)