**Form No. J.(2)**
**Item No. 12**

**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. 1838 of 2024**
**With**
**I.A. No. CAN 1 of 2024**

**Haripa India & Anr.**
**Vs.**
**The Assistant Commissioner of State Tax**
**Lyons Range and N.D. Sarani 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**

**JUDGMENT**

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

1. The appellants/petitioners are aggrieved by the order passed by the learned Single Bench dated September 5, 2024 in W.P.A. 18230 of 2024 while granting an interim order and directing the appellants to secure the entire tax component as made under the adjudication order dated April 29, 2024

by furnishing a bank guarantee to the satisfaction of the learned Registrar General of this Court.

2. The appellants would contend that the chain of events will clearly show that the appellants had been promptly responding to all the show-cause notices and has submitted the documents in support of their claim. They also relied upon various decisions of the Hon'ble Supreme Court as well as this Court. However, the adjudicating authority, without considering the reply given by the assessee, by a single line, has rejected the reply as not satisfactory and confirmed the demand made in the show-cause notice in Form GST DRC-01.This order has been put to challenge in the writ petition.

3. In our view, the adjudicating authority, which is the first authority in the hierarchy of authorities, is bound to consider the reply and record reasons as to why the reply is not satisfactory. This is manifestly absent in the adjudication order dated April 29, 2024. This would be sufficient to set aside the order and remand the entire proceedings back to the adjudicating authority/assessing officer.

4. For the above reasons, this appeal is allowed. The interim order passed in the writ petition is set aside and the writ petition is allowed and the adjudication order dated April 29, 2024 passed under section 73 of the WBGST Act, 2017 is set aside and the matter is remanded to the adjudicating authority for fresh consideration.

5. The adjudicating authority shall afford an opportunity of personal hearing to the authorised representative of the assessee, take into consideration the oral submissions, the reply to the show-cause notices and all the

documents and pass a speaking order on merits and in accordance with law.

6. The appellants are at liberty to place all the decisions in support of their contentions, which shall be dealt with by the adjudicating authority.

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.

**(BIVAS PATTANAYAK, J.)**

Pallab/KS AR(Ct.)