Form No. J.(2)
Item No.11

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

HEARD ON: 02.01.2024

DELIVERED ON: 02.01.2024

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

THE HON'BLE MR. JUSTICE SUPRATIM BHATTACHARYA

M.A..T. 2039 of 2023
With
I.A. No. CAN 1 of 2023

Prabir Kanrar
Vs.
Assistant Commissioner of State Tax, Shibpur Charge & Ors.

Appearance:-

Mr. Sandip Choraria
Mr. Rajkumar Banerjee ....**for the appellant**

Mr. A. Ray, Ld. G.P.
Mr. T. M. Siddiqui
Mr. T. 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 by the writ petitioner is directed against an order dated 29th August, 2023 in W.P.A. 20381 of 2023, by which the prayer for interim relief was rejected. The writ petition is still pending and affidavit-in-opposition was directed to be filed by the department.

2. As jointly prayed, the writ petition along with this appeal are taken up for disposal by this common order.

3. The appellant had impugned an order passed by the appellate authority viz., the Senior Joint Commissioner of W.B.G.S.T., Howrah Circle dated 26th August, 2021 by which the appeal petition filed by the appellant challenging the order passed by the Assistant Commissioner of State Tax, Shibpur Charge, Howrah rejecting the application for revocation of the order cancelling the appellant's registration was affirmed.

4. As could be seen from the order passed by the appellate authority dated 26th August, 2021, the appellant failed to appear before the appellate authority despite notice being served on the appellant. The appellate authority has also noted that the appellant did not reply to the notice dated 16th March, 2021 issued by the assessing authority.

5. Thus, it is seen that the appellant has not been diligent in prosecuting the matter either before the original authority or before the appellate authority and consequently, he has to reap the consequences.

6. The learned advocate appearing for the appellant would plead that the appellant is not well educated and is not very conversant with uploading of details electronically in the official portal etc. and prays that one more opportunity may be granted to the appellant to go before the appellate authority and place all documents to establish that the appellant is carrying on business in the place in question and that the registration certificate has not been obtained by playing any fraud.

7. Considering the peculiar facts and circumstances of the case, we are of the view that one more opportunity can be granted to the appellant to go before

the appellate authority and this shall be the final opportunity and if the appellant fails to utilise this opportunity, no relief can be granted to the appellant.

8. For the above reasons, the appeal and writ petition are disposed of by remanding the matter back to the appellate authority with a direction to recall the order dated 26th August, 2021. Grant 15 days time to the appellant to file his objection/reply and after which a fresh date for personal hearing be fixed and after hearing the appellant or his authorised representative, fresh orders be passed by the appellate authority on merits and in accordance with law.

9. No costs.

10. 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.

(SUPRATIM BHATTACHARYA, J.)

Pallab/KS AR(Ct.)