

09.01.2024
Item No.08
RP/KC
Ct. No.1

MAT 2388 of 2023
+
IA No.CAN 1 of 2023

**Mr. Mahabir Prasad Kedia, Proprietor of M/s.
Sanjay Casting & Eng. Co.**
Vs.
**The Assistant Commissioner of State Tax, Howrah
and Kadamtala Charge & Ors.**

Mr. Ankit Kanodia
Mr. Megha Agarwal
Mr. Jitesh Sah

.....for the Appellant

Mr. Anirban Ray, Ld. GP
Md. T.M. Siddiqui
Mr. T. Chakraborty
Mr. S. Sanyal

.....for the State/Respondents

Mr. K.K. Maity
Mr. Tapan Bhanja

.....for CGST Authority

1. The appeal filed by the petitioner is directed against the order dated 5th December, 2023 passed in WPA 26410 of 2023 by which the learned Single Bench declined to grant any interim relief. At the request of the learned advocates for the either side, the appeal and the writ petition are taken up for disposal by a common order and judgment.
2. The appellant was issued an audit memo in which several discrepancies have been pointed out and in this appeal and writ petition we are concerned about discrepancy. The assessee on receiving the said

audit notice informed the SGST Authority that over the same issue a show cause notice has been issued by the anti-evasion wing of CGST Department dated 28th March, 2023 for the financial years 2017-2018 to 2021-2022 wherein all the points as mentioned in the audit memo have been considered and the same is under adjudication. The assessee has given a reply to the said show cause notice on 4th May, 2023 and the matter is now pending adjudication before the fourth respondent. Over such reply given by the assessee the audit wing of the State GST Authority was of the opinion that it is not clear from the reply given by the appellant/assessee that discrepancy no.3 has been settled. The audit authority has failed to take note of the submission made by the assessee and the subject matter is pending adjudication by the CGST Authority, namely, the fourth respondent, who has issued the show cause notice dated 28.3.2023 which reply has been submitted by the appellant/assessee on 2nd May, 2023. Therefore, the audit wing of the State GST Authority ought to keep the matter abeyance so far as the discrepancy note is concerned. The authority now has issued a show cause notice dated 29.12.2023 since the discrepancy note no.3 pointed out by the Audit Wing of the State GST authority is the subject matter of adjudication of CGST

Authority. Pursuant to the show cause notice dated 28.03.2023 the audit wing of the SGST Authority should not proceed. Accordingly, the appeal along with the connected application and the writ petition are disposed of by directing the audit wing of the SGST Authority to keep in abeyance all proceedings in respect of the discrepancy note no.3 alone including the show cause notice dated 29.12.2023 and abide by the adjudication order to be passed by the CGST Authority , namely, the fourth respondent on the show cause notice dated 28.03.2023.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(SUPRATIM BHATTACHARYA, J.)