Form No. J.(2)
Item No. 03
Pallab/KS AR(Ct.)

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE
HEARD ON: 18.02.2025

DELIVERED ON: 18.02.2025

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

THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

M.A.T. 216 of 2025
With
I.A. No. CAN 1 of 2025

LGW Industries Limited
Vs.
Assistant Commissioner of Revenue,
State Tax, ITC Investigation Unit & Ors.

Appearance:-
Mr. Vinay Kr. Shraff
Mr. Dev Agarwal
Ms. Priya Sarah Paul
Mr. S. Poddar ....**for the appellant**

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

JUDGMENT

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

1. We have heard Mr. Vinay Kumar Shraff, learned advocate for the appellant and Mr. T.M. Siddique, learned senior advocate appearing for the State, assisted by Mr. Tanoy Chakraborty, learned advocate.

2. This intra-Court appeal by the writ petitioner is directed against the order dated February 10, 2025 in W.P.A. 2451 of 2025. In the said writ petition, the appellant/writ petitioner had challenged the adjudication order dated

July 19, 2024 on three grounds i.e. i) that the adjudication order was passed without giving an opportunity of hearing, ii) the adjudication order was passed without granting opportunity to file written notes of reply and iii) appellants prayed for cross-examination of those, whose statements have been relied upon while passing the adjudication order. The learned Single Bench had directed the appellant/writ petitioner to avail the appellate remedy provided under section 107A of the GST Act.

3. Mr. Shraff, learned advocate appearing for the appellant would strenuously contend that the appellant had not filed a reply to the show-cause notice but sought for cross-examination of certain persons, whose statements were recorded and without affording the opportunity or without rejecting such a request by separate order, the adjudication has been completed and the demand has been raised on the appellant

4. Further, it is submitted that one other officer of the very same department viz. the Assistant Commissioner of State Tax has granted a refund to the appellant, which will go to establish that the transactions done by the appellant are genuine. However, it is submitted that the authority does not dispute the fact that the appellant had paid taxes, as demanded by the department.

5. Heard Mr. T.M. Siddique, learned senior advocate on the above submissions. On going through the voluminous document placed before us, we find that the matter provides adjudication into facts. It is not simple adjudication but deep and thorough adjudication into facts are required to be done and therefore, it is not one of the exceptional cases, where the appellant/assessee should be permitted to bypass the statutory appellate remedy.

6. One other issue, which was brought to our notice is that though the adjudication order was passed by the authority as early as on July 19, 2024, the writ petition was filed sometime in January 2025 that is well beyond the time prescribed for filing a statutory appeal. Despite this position, the learned Single Bench granted liberty to the appellant to file the statutory appeal within a time-frame and the appeal was directed to be decided on merits. Thus, we find that the reasoning given by the learned Single Bench is perfectly justified and does not call for any interference.

7. Accordingly, the appeal fails and is dismissed.

8. The appellant is directed to file a statutory appeal within a period of 30 days from the date of receipt of server copy of this judgment and order and if the appellant does so, the appellate authority shall entertain the appeal without rejecting the same on the ground of limitation.

9. It will be well open to the appellant to canvass all factual and legal issues before the appellate authority, which shall be considered after affording an opportunity of personal hearing to the authorised representative of the appellate/assessee.

10. It is made clear that the contentions, which have been raised by the appellant in this appeal as well as in the writ petition, are not being adjudicated and the appellant shall be entitled to canvass all points before the statutory appellate authority.

11. It is submitted by Mr. Shraff, learned advocate appearing for the appellant that after the order of adjudication was passed, the department has recovered certain sums of money from the electronic ledger of the appellant and prays that this amount so recovered, may be adjusted as against the

pre-deposit, which has to be done by the appellant while filing the statutory appeal.

12. The appellant is at liberty to file an appropriate application in this regard before the appellate authority and appellate authority shall examine the same and pass necessary orders.

13. No costs.

14. 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.

(CHAITALI CHATTERJEE (DAS), J.)