

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

HEARD ON: 25.03.2025

DELIVERED ON: 25.03.2025

CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

M.A.T. 338 of 2025
With
I.A. No. CAN 1 of 2025

Madhusudan Banik, Proprietor of
M.M. Pharmaceuticals
Vs.
State of West Bengal & Ors.

Appearance:-

Mr. Himangshu Kr. Ray
Mr. Arup Dasgupta
Mr. Bhaskar Sengupta
Mr. Subhasis Podder
Ms. Shiwani Shaw
Mr. Animitra Roy
Mr. Piyas Chowdhuryfor the appellant

Mr. Anirban Ray, Ld. GP
Md. T.M. Siddique, Ld. Sr. Adv.
Mr. Tanoy Chakraborty
Mr. S. Sanyal
Mr. Debraj Sahufor the State

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

1. This intra-Court appeal is directed against the order dated February 10, 2025 by which the writ petition filed by the appellant in W.P.A. 30434 of

2024 was dismissed. In the said writ petition, the appellant has challenged the order passed by the Additional Commissioner of Revenue, 24-Parganas Circle dated November 22, 2024 affirming the adjudication order passed by the Deputy Commissioner for the period from April 1, 2018 to March 31, 2019.

2. The appellant/writ petitioner has to be solely blamed for the present situation. Despite show-cause notice being issued by the adjudicating authority, the appellant did not submit a reply nor did he participate in the adjudication process, which ultimately culminated in an order under section 73(9) of the WBGST Act, 2017(for brevity' the Act'.) However, the appellant appears to have been diligent enough to file an appeal before the appellate authority within the condonable period of limitation. However, in spite of three adjournments, the appellant/assessee did not appear before the appellate authority, which led to dismissal of the appeal.
3. In terms of sub-section (12) of section 107 of the Act, the appellate authority is expected to pass a reasoned order. However, on perusal of the appellate authority's order, we find that there is no reason and the appeal has been rejected since no application for adjournment was submitted and no further adjournment can be allowed. The grounds, which have been canvassed in the appeal petition, have not been adverted to.
4. Therefore, we are of the view that the matter has to be decided afresh by the appellate authority after giving one more opportunity to the appellant and thereafter to pass a speaking order.
5. For the above reasons, the appeal is allowed, the order passed in the writ petition is set aside and the order passed by the appellate authority dated

November 22, 2024 is set aside and the appeal is remanded to the appellate authority for fresh consideration.

6. The appellate authority shall fix a date for personal hearing and on the said date, the appellant/assessee shall appear either in person or through the authorised representative without seeking for any adjournment.
7. The appellant/assessee is entitled to submit his written submissions after which, the appellate authority shall consider all documents and pass a speaking order on merits and in accordance with law.
8. No costs.
9. 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.)