

22.01.2025
Item No.3
PG/KS
Ct. No.1

**M.A.T. 1092 of 2024
With
IA No. CAN 3 of 2024**

**Joydeep Roy
Vs.
The Institute of Chartered Accountants India & Ors.**

Mr. Santanu Chakraborty
Mr. Abhishek Sikdar
Ms. S. Dey

.....For the Appellant

Mr. Rajib Ray
Mr. Debashis Halder

.....For the ICAI

1. This intra-Court appeal is directed against two orders passed in W.P.A. No.20724 of 2023 and W.P.A. 10064 of 2024. The first order being the order dated 6th February, 2024 by which the writ petition was dismissed and the second order is dated 30th April, 2024. In paragraph 14 of the order passed by the learned Single Bench dated 30th April, 2024 it was made clear that the writ petition was dismissed on the principles of *res judicata* and nothing in the said order shall prevent the writ petitioner, if the writ petitioner is otherwise entitled in law, to prefer an appeal against the order dated February 6, 2024 passed by this Court in W.P.A. 20724 of 2023. If such an appeal is preferred, the petitioner shall not be prejudiced therein by any of the observations or the dismissal of the writ petition.

2. The learned advocate appearing for the appellant/writ petitioner submitted that the appellant was constrained to challenge the order passed by the respondents by filing a writ petition since the Tribunal constituted under the relevant Act was not functional and as of now, the Tribunal has been constituted, it is functional and the appellant/writ petitioner is desirous of pursuing his remedy before the appellate authority and therefore, seeks leave to withdraw this appeal.
3. We have heard the learned advocate appearing for the respondents on above submissions.
4. In the light of the submissions made by the learned advocate for the petitioner on instructions from the petitioner, the appeal is dismissed as withdrawn and the appellant is permitted to pursue his appeal, which was, in fact, filed before filing of this intra-Court appeal.
5. It is made clear that the appellant will be entitled to canvass all issues both factual and legal before the appellate authority and the appeal will be decided on its own merits after considering the factual and legal issues canvassed by the appellant without being influenced in any manner by the observations made by the learned Single Bench in the order dated 6th February, 2024 or 30th April, 2024.
6. No costs.

7. 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

(HIRANMAY BHATTACHARYYA, J.)