

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

HEARD ON: 03.12.2024 & 14.01.2025

DELIVERED ON: 14.01.2025

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**M.A.T. 1933 of 2024
With
I.A. No. CAN 1 of 2024**

**M/s. A.K. Enterprise represented by
Its proprietor: Alok Kundu
Vs.
Deputy Commissioner of State Tax,
Howrah Zone, Bureau of Investigation & Ors.**

Appearance:-

Mr. J.A. Khan

Mr. B. Sengupta

Ms. Priyamvada Singh

.....for the appellant

Mr. Anirban Ray, Ld. GP

Mr. T.M. Siddique, Sr. Adv.

Mr. Tanoy Chakraborty

Mr. S. Sanyal

.....for the State/respondents

JUDGMENT

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

1. This intra- Court appeal by the writ petitioner is directed against the order dated August 27, 2024 in W.P.A. 17085 of 2024. In the said writ petition, the appellant had challenged an adjudication order passed under section 74 of the CGST/WBGST Act, 2017.

2. The issue to be proved by the appellant is whether it had sufficient proof for movement of goods.
3. It is pointed out by the learned senior advocate appearing for the State/respondents that huge transactions were made and all those suppliers' registration had been cancelled. It is pointed out from the annexures to the show cause notice that invoice values for each of the months mentioned therein are substantial and the theory that the materials were shifted to the place of business of the appellant by handcart is a matter to be established by adequate proof.
4. This issue, therefore, cannot be decided in a writ petition and hence the learned Single Bench was right in relegating the petitioner to file a statutory appeal.
5. Thus, we find no ground to interfere with the impugned order. Accordingly, the appeal and the connected application are dismissed.
6. If the appellant files the statutory appeal before the appellate authority within 30 days from the date of receipt of server copy of this order, the appeal shall not be rejected on the ground of limitation but shall be heard and decided on merits and in accordance with law.
7. No costs.
8. 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.

(HIRANMAY BHATTACHARYYA, J.)