

Item No.8.

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

HEARD ON: 22.11.2022

DELIVERED ON:22.11.2022

CORAM:

THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM

AND

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T No.1523 of 2022

with

I.A. No.CAN 1 of 2022

Graphic aids.

Vs.

Sales Tax Officer, Princep Street Charge & ors.

Appearance:-

Mr. Souradipta Saha,

Ms. Singdha Saha

..... for the appellant.

Mr. Md. T. M. Siddique,

Mr. Debasish Ghosh,

Mr. V. Kothari

..... for the State

JUDGMENT

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

1. The appellant is directed to remit the deficit court fees of Rs.600/- during the course of this day.

2. This intra Court appeal by the writ petitioner is directed against the order dated 16th August, 2022 passed in W.P.A. No.17775 of 2022. In the said writ petition, the appellant had challenged the garnishee order dated 23rd March, 2022 for recovery of the tax and penalty payable pursuant to the assessment order dated 29th June, 2012. The learned Single Bench has dismissed the writ petition on the ground that the appellant / writ petitioner is not aware of the fate of the revisional application, which it had filed against the order passed by the appellate authority dated 7th February, 2014.

3. The learned Advocate appearing for the appellant submitted that even much prior to the assessment order, since there was a change of place of business, the appellant had filed the requisite details before the Sales Tax Officer concerned requesting for amendment of the place of business in the certificate of registration, which was not done. That apart, after the department adopted online system, requisite online application was filed for change of address, which is also kept pending. The learned Advocate for the appellant would further

submit that no opportunity of hearing was granted to it by the appellate authority, who dismissed the appeal by an order dated 7th February, 2014.

4. Aggrieved by such order, the revisional application has been filed and till date, the appellant has not been informed about the date of hearing of the revisional application, nor further steps taken by the revisional authority and for the first time, when the writ petition was heard, it was mentioned on behalf of the respondents that the revision petition has been disposed of. Further, order passed in the revisional application was not served or communicated to the appellant. Further, it is submitted that after the writ petition was dismissed, the respondents have recovered a sum of Rs.16,51,924/- as against the total outstanding of Rs.32,03,488/-.

5. Considering the facts and circumstances of the case, which we find to be very peculiar, the following order would not only protect the interest of the appellant but also that of the respondents / revenue.

6. In the result, the appeal is partly allowed and the order passed in the writ petition is set aside with a direction to the appellant to file an application before the revisional authority clearly setting out all facts and requesting the revisional authority to recall the order disposing of the revisional application and if such an application is filed, the revisional authority shall take up the same and pass a speaking order on merits and in accordance with law after affording an opportunity of personal hearing to the authorised representative of the appellant.

7. As stated by the learned Advocate for the appellant that sum of Rs.16,51,924/- has been recovered after the writ petition was dismissed, we feel the interest of revenue has been sufficiently safeguarded as more than 50% of the total dues has already been recovered. Therefore, the garnishee order for the balance amount shall be kept in abeyance and abide by the orders to be passed by the revisional authority in terms of the above direction.

8. In the light of the above, the attachment of the bank account of the appellant shall be lifted within a period of

three days from the date of receipt of the server copy of this judgment in order to enable the appellant to operate its bank account.

9. Connected application being I.A. No. CAN 1 of 2022 is also disposed of accordingly.

10. There shall be no order as to costs.

11. 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, J)

I agree,

(HIRANMAY BHATTACHARYYA, J.)

NAREN/PALLAB (AR.C)