

Item No. 06

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

HEARD ON : 21.08.2025

DELIVERED ON : 21.08.2025

CORAM:

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

MAT 1332 of 2025 with
I.A. NO. CAN 1 of 2025

RAMDIHA MERCANTILE PRIVATE LIMITED

vs.

DEPUTY COMMISSIONER OF STATE TAX & Ors.

Appearance:-

Mr. Akshat Agarwal
Mr. Parikshit Karmakar

... for the appellant

Mr. Amitabrata Roy, Ld. GP
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal

... for the State

JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice

T.S.SIVAGNANAM)

1. This intra-Court appeal filed on behalf of the writ petitioner is directed against the order dated 04.08.2025 passed in WPA 4710 of 2025 by which the learned Single Bench declined to grant any interim order but directed affidavit-in-opposition to be filed by the respondent/department. Aggrieved by the same the appellant has filed the present appeal. Since the issues involved in the writ petition as well as in appeal are lying in a narrow compass, with the consent of the parties both the writ petition as well as the appeal are heard and disposed of by this common judgment and order.
2. The appellant had challenged the order passed by the Appellate Authority under Section 107 of the WBGST/CGST Act, 2017 by which the appeal was dismissed as time barred. The said appeal was preferred by the appellant by challenging an adjudication order passed under Section 73(9) of the WBGST Act 2017 dated 9th July, 2023. As could be seen from the adjudication order despite opportunity was being granted neither the appellant/assessee participated in the hearing nor submitted any reply to the show cause notice. Therefore, the Adjudicating Authority, namely, the Joint Commissioner cannot be faulted for having passed an order of adjudication. So far as the order passed by the Appellate Authority is concerned the same also cannot be faulted since the statutory appeal was filed by the appellant beyond the condonable period prescribed under the statute. However, considering the fact that the appellant/assessee is a running business concern and would submit that reconciliation can be done and all queries raised by the department can be answered and they pray for only one more opportunity to enable them to go before the Adjudicating Authority and put forth all facts and relevant material.

Thus, considering the peculiar facts and circumstances of the case we are inclined to grant one opportunity to the appellant to go before the Adjudicating Authority. However, such opportunity is subject to certain conditions.

3. Accordingly, we dispose of the writ petition as well as the appeal and the connected application by directing the appellant to deposit 10% of the total disputed tax, namely, 10% of Rs.21,81,173/- in addition to the deposit, which has already been made by the appellant while preferring the statutory appeal. The appellant is directed to comply with the above condition within 15 days from the date of receipt of the server copy of this order and after producing the deposit challan the appellant shall treat the order of adjudication dated 9th July, 2023 as a show cause notice and submit their reply within 15 days therefrom. Upon receipt of the reply the Adjudicating Authority shall fix a date of personal hearing and after hearing the contentions that may be raised by the appellant as well as the documents that may produce and redo the adjudication and pass a fresh order on merits and in accordance with law within a period of 15 days from the date on which the personal hearing is concluded.
4. Hence, the writ petition as well as the appeal stand disposed of and consequently the connected application also stands disposed of, however, without any order as to costs.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)

RP/SM(AR.CT.)