

Item no. 05

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

Present:

The Hon'ble Justice T.S. Sivagnanam

And

The Hon'ble Justice Hiranmay Bhattacharyya

MAT 854 of 2022

with

IA No. CAN 1 of 2022

Jyoti Commotrade Private Limited

vs.

State of West Bengal & Ors.

Appearance:

For the Appellant : Mr. Mainak Bose
Mr. Neeraj Kumar Pandey
Mr. Shakeel Mohammad Akhter

For the Respondents : Mr. Anirban Ray, Ld. Government Pleader
Mr. S. Mukherjee
Mr. Debasish Ghosh

Heard on : 21.06.2022

Judgment on : 21.06.2022.

T.S. Sivagnanam J.:

This intra-Court appeal has been filed by the writ petitioner/appellant challenging the order dated 19th May, 2022 by which the learned Single Judge has declined to grant any interim order in favour of the writ petitioner. The appellant is aggrieved by the

communication dated October 22, 2021 blocking electronic credit ledger thereby leaving a negative balance of Rs.1,14,30,608/-. According to the appellant, the reasons cited by the respondent authorities for blocking of the electronic credit ledger are absolutely untenable and factually incorrect. On going through the communication received by the assessee on 22.10.2021 it seems that during the period of December 2017 to January 2018 certain claim on account of input tax credit had disallowed on the ground being that the party with whom the assessee had transaction is non-existing at the declared place of business and the registration has been obtained by exercising fraud and willful misstatement/suppression of fact. Therefore, the authority having reason to believe that input tax credit has fraudulently availed and the input tax credit to the tune of Rs.71,23,836.66 paisa each under Central Goods and Services Tax/West Bengal Goods and Services Tax head had been blocked. Due to pending finalization of the proceedings regarding blocking of the electronic credit ledger by the respondent No.2 the business activity of the assessee/appellant has come to a stand still.

We have heard the learned counsel for the parties. Since the issues involved in the writ petition are identical as raised in the appeal, by consent of the learned advocates for the parties we take up the writ petition, being WPA 8329 of 2022, along with appeal for disposal. Accordingly, WPA 8329 of 2022 is treated as on day's list.

Admittedly, the allegations relate to transactions pertaining to financial year 2017-2018 and accordingly by a notice dated October 22, 2021 the alleged claim of input tax credit to the tune of Rs.71,23,836.66 paisa each under CGST/SGST head had been disallowed. If that is so, the remaining credit which the assessee will be entitled to on account of blocking of the electronic credit ledger is that the entire business activity has come to a standstill. Apart from that when the communication blocking the electronic credit ledger was passed the credit which was available under that head was only Rs.19,00,000/-. In any event if proceedings having been initiated and the assessee has given reply the respondent no.2 shall take the proceeding to the logical conclusion at the earliest. We are informed that the registration of the assessee has been suspended on account of non-filing of the return. In fact, this is a very drastic step taken by the authority, more particularly when the respondent no.2 is yet to issue any show cause notice. Therefore, we are of the view that the following order will protect the interest of the assessee as well as the department of revenue.

Accordingly, the writ petition and the writ appeal along with the application are disposed of by directing the authority to restrict blocking of the electronic ledger credit to the tune of Rs.71,23,836.66 paisa under CGST/SGST head and issue a show cause notice upon the appellant within a period of 10 days from receipt of the server copy of the order and thereafter shall afford a reasonable time to the appellant

to submit its reply to the show cause notice, after which the appellant be afforded an opportunity of personal hearing and an order be passed on merits in accordance with law. So far as blocking of the electronic credit ledger beyond the amount indicted above, the respondent authorities are directed to lift the same and consequently registration of the appellant/ assessee under the relevant Act be restored so far as it enables the assessee/appellant to file its return.

Accordingly, MAT 854 of 2022 along with CAN 1 of 2022 and WPA 8239 of 2022 are **disposed of**.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)