ITEM NO.33 COURT NO.8 SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 31296/2025

[Arising out of impugned final judgment and order dated 28-08-2025 in MAT No. 1212/2025 passed by the High Court at Calcutta]

ROSHAN SHARMA Petitioner(s)

VERSUS

DEPUTY COMMISSIONER OF REVENUE, STATE TAX & ANR. Respondent(s)

IA No. 276202/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

Date : 10-11-2025 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :Mr. Vinay Shraff, Adv.
Mr. Ravi Bharuka, AOR
Mr. Dev Agarwal, Adv.
Mr. Shashank Chamoli, Adv.

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

1. Heard Mr. Vinay Shraff, the learned counsel appearing for the petitioner.

2. Prima facie it appears that the High Court declined to grant any relief to the petitioner herein on the ground that the petitioner has an alternative efficacious remedy of going before the Commissioner, GST.

3. The principal argument of the learned counsel is that ITC cannot be denied solely on the ground that the GST registration of the seller of goods has been cancelled. In other words, goods were purchased by the petitioner herein from a particular party and the GST registration of that party has stood cancelled. In such circumstances, his submission is that the ITC, insofar as the petitioner is concerned, could not have been denied.

4. Issue notice, returnable on 8.12.2025.

5. One copy of the entire paper books shall be served to Ms. Madhumita Bhattacharya, the learned counsel, who ordinarily appears for the State of West Bengal.

(CHANDRESH)	**(POOJA SHARMA)**
ASTT. REGISTRAR-cum-PS	**COURT MASTER (NSH)**

Form No. J.(2)
Item No.5
Pallab/KS AR(Ct.)

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

HEARD ON: 28.08.2025

DELIVERED ON: 28.08.2025

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

M.A.T. 1212 of 2025
With
I.A. No. CAN 1 of 2025

Roshan Sharma, sole proprietor of
M/s. ARS Metals
Versus
Deputy Commissioner of Revenue,
State Tax, Strand Road, Chinabazar
& Rajakatra Charge & Anr.

Appearance:-
Mr. Vinay Shraff
Mr. Dev Agarwal
Ms. S. Podder
Ms. Priya Sarah Paul
..........For the Appellant

Mr. Amitabrata Roy, Ld. G.P.
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...........For the State

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

1. The writ petitioner is the appellant before us, having been unsuccessful in challenging an order of adjudication dated 24th July, 2024. On an earlier occasion, the appellant had approached this Court and an order was passed in M.A.T. 854 of 2024 dated 7th May, 2024 remanding the matter to the adjudicating authority with certain observations/directions. Upon such remand, the adjudicating authority has conducted *de novo* adjudication and passed the order dated 24th July, 2024, by which, the authority has levied tax,

7. interest and penalty under the provisions of the C.G.S.T./W.B.G.S.T. Act, 2017.

2. Admittedly, as against the adjudication order, the appellant has an effective alternate remedy of filing an appeal.

3. Learned advocate appearing for the appellant would strenuously contend that with regard to the movement of the goods, the appellant was able to produce documents, which were available at their end, but, however, the details, as recorded in the Fastag Portal, cannot be accessed by the appellant and in this regard, the Department ought to have co-operated with the appellant and provided necessary details.

4. Furthermore, learned advocate has also sought to canvass certain grounds as regards the effect of the statements given by the supplier during the cross-examination etc. In our considered view, to test the correctness of the impugned order, facts have to be adjudicated much of which is being disputed and denied by the Department.

5. Therefore, we are not persuaded to exercise any discretion in the matter, since, the appellate remedy provided under the Act, is not only an effective remedy, but an efficacious remedy as well. The appellate authority will be able to appreciate the factual position, if necessary, it can call for the records and also direct its office to access the Fastag Portal etc. and all such grounds raised by the appellant can be canvassed before the appellate authority, which will be considered by the appellate authority after giving an effective opportunity of personal hearing to the appellant.

6. Therefore, considering the facts and circumstances of the case, the appellant should not be permitted to bypass the statutory appellate remedy.

7. Therefore, we are not inclined to interfere with the order passed by the learned Single Bench.

8. Accordingly, the appeal is dismissed along with the connected application (I.A. No. CAN 1 of 2025) with a direction to the appellant to file a statutory appeal before the appellate authority and if such an appeal is filed within a period of 60 days from the date of receipt of server copy of this judgment and order, the appellate authority shall entertain the appeal without reference to limitation and subject to compliance of other conditions upon the appellant. The appellate authority shall consider all grounds that may be canvassed by the appellant and the documents submitted by them and after affording an opportunity of personal hearing to the authorized representative of the appellant, pass a reasoned order on merits and in accordance with law.

9. The appellant will be entitled to make a specific request to the appellate authority with regard to the Fastag details, which according to the appellant, is a very vital document. This aspect shall be canvassed by the appellant before the appellate authority, which shall be taken note of in accordance with law.

10. No 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)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)