10.9.2020

gd/dns

FMA 901 of 2020
(MAT 523 of 2020)
IA No. CAN 1 of 2020 (CAN 5570 of 2020)
IA No. CAN 2 of 2020 (CAN 5571 of 2020)
(Via Video Conference)

Emami Agrotech Limited
Vs.
The Senior Joint Commissioner, State Goods and Services Tax, west Bengal & Ors.

Mr. Rahul Dhanuka
..for the Appellant

Mr. Abhrotosh Majumder
..for the Respondents

The appeal is directed against an order dated July 30, 2020 passed on a writ petition challenging the assessing officer's rejection of an application for refund of GST. The writ petition was not entertained on the ground of there being an alternative remedy.

The appellant says that the principal ground urged in assailing the order of the assessing officer was that such order was in breach of the principles of natural justice. The appellant says that all that the appellant endeavoured to achieve was to have the relevant order of the assessing officer set aside and the matter remanded for fresh consideration before the assessing officer. The appellant submits that it was not the appellant's intention that the writ court should go into the merits of the matter and decide the same.

The respondents are agreeable to the matter being remanded to the assessing officer for a de novo consideration on merits upon affording the appellant an opportunity of being heard.

In view of the fair stand taken by the respondents, the order of the assessing officer dated March 4, 2020 is set aside. The appellant's application for refund of GST before the assessing officer is revived. It is left open to the assessing officer to take appropriate steps in accordance with law, including the issuance of any show-cause notice, if the facts so warrant. The assessing officer will allow the appellant to present its case and, in considering the matter, the assessing officer will take all relevant material, including applicable circulars, into account.

FMA 901 of 2020 along with CAN 5570 of 2020 and CAN 5571 of 2020 and WP 5788(W) of 2020 are disposed of. The order impugned stands modified accordingly.

There will be no order as to costs.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)

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