27.11.2020
Item No. 32
Court No.5
ap

W.P.A. No. 7799 of 2020
(via Video Conference)

Texmaco Rail and Engineering Limited & Anr.
Versus
West Bengal Commercial Taxes Appellate and Revisional Board & Ors.

Mr. Agnibesh Sengupta,
Mr. Indranil Banerjee,
Mr. Subrata Mukherjee.
...For the petitioners.

Mr. Soumitra Mukherjee.
...For the respondents.

The petitioners are aggrieved by an order of the West Bengal Commercial Taxes Appellate and Revisional Board dated 6th August, 2019 by which the petitioners' claim under Section 8(1) of the Central Sales Tax Act, 1956 was allowed for Rs.24,32,22,990/- and the claim under the said provision of the Act was modified to Rs.2,31,92,35,528/-. The said order of the Appellate Board was passed against an impugned order of the Additional Commissioner of Sales Tax which had modified the assessment order passed by the Joint Commissioner of Commercial Taxes.

The petitioners pray for quashing of the impugned order of the Appellate Board to the extent that the said order disallowed the claim of the petitioners under Section 8(1) of the Act to the tune of Rs.2,35,56,664/-.

The learned counsel appearing for the petitioners submits that in another matter involving similar facts, the respondent no.1 being the West Bengal Commercial Taxes Appellate and Revisional Board had granted the petitioner no.1 some more time to produce the C-Form for the balance amount of the claim under Section 8(1) of the Act. Counsel submits that similar order should be passed on these facts as well.

The learned counsel appearing for the State submits that additional C-Form contained in Annexure – P/4 to the writ petition may be considered by the respondent no.2 being the Joint Commissioner of Commercial Taxes which would resolve the disputes raised in the writ petition.

On hearing the learned counsel for the parties, this Court is of the view that since the learned counsel appearing for the State has made its position clear, the writ petition may be disposed of with a direction upon the respondent no.2 being the Joint Commissioner of Commercial Taxes to consider C-Form annexed to the writ petition being Annexure – P/4 and pass a decision thereon.

It should also be mentioned that by an order dated 21st August, 2018 passed in W.P. No. 14861 (W) of 2018, a Co-ordinate Bench of this Court had also directed that the revisional authority would consider the additional C-

Form which may be produced by the petitioners in that writ petition and pass an order on the same.

A similar direction should also be passed in this matter since the facts involved in this writ petition are the same.

In view of the above, the respondent no.2 is directed to consider the additional C-Form produced by the petitioners in this writ petition and pass a reasoned order within four weeks from date and a copy of such reasoned order should be given to the petitioners.

It is made clear that this Court has not gone into the merits of the disputes. It is also made clear that the concerned authority will be at liberty to go into the facts of the case, as it considers fit.

W.P.A. No. 7799 of 2020 is disposed of in terms of the above.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Moushumi Bhattacharya, J.)