22.07.2021
SL No.6
Court No.16
(gc)

WPTT 12 of 2019

Silktex Exports
Vs.
Sales Tax Officer, Park Street Charge & Ors.

(Via Video Conference)

Mr. Anikesh Banerjee,
Ms. Sanchita Dey,
...for the Petitioner.
Mr. Anirban Ray, Ld. G.P,
Mr. Debasish Ghosh,
Md. T.M. Siddiqui
...for the Respondents.

The writ petition is arising out of an order dated 10th September, 2018 in connection with a liability arising under Value Added Tax Act, 2003 (hereinafter referred to as "VAT Act, 2003"). It appears that the writ petitioner approached this Hon'ble Court in WP 546 (W) of 2018 challenging the order passed by the Revisional Authority on 20th February, 2017 by which the said authority had assessed the tax liability of the petitioner by modifying the *ex parte* order of the appellate authorities dated 30th April, 2015. The writ petition was disposed of by directing the Revisional Authority to consider the matter afresh on merits and in accordance with law and all points with regard to the incidence of the tax of the petitioner are kept open. We have been given to understand that it would encompass all liabilities arising out of purchase tax imposed under VAT Act, 2003. The fact remains that the Revisional Authority till date has not decided the said issue. The other grievance of the petitioner is that the petitioner is entitled to refund of tax under VAT Act, 2003, which has not been refunded to the writ petitioner.

The liability to pay purchase tax has to be assessed by the Revisional Authority which has since not been done. Under such circumstances, we dispose of this writ petition by directing the Revisional Authority to assess the purchase tax forming the subject matter of challenge in RN-448 of 2018 within twelve weeks from the date of communication of this order subject to the writ petitioner depositing a sum of Rs.45,000/- on an ad hoc basis without prejudice to its rights and contentions within 31st July, 2021, failing which, the order of the Tribunal dated 10th September, 2018 shall revive. We also direct the respondent authorities to immediately process the claim for refund and issue payment orders towards refund if found to be due and payable to the writ petitioner within the aforesaid period of twelve weeks.

The order of the Tribunal stands modified to the aforesaid extent.

With the aforesaid observation, the writ petition being WPTT 12 of 2019 stands disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.) **(Soumen Sen, J.)**