47 11.5.2022
Sc Ct. no.2

WPA 8078 OF 2022

J. M. Sales Corporation & Anr.
-vs.-
The Assistant Commissioner of State Tax, Bally & Salkia Charge Bally Circle & Ors.

Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. H. K. Roy.
... For the Petitioners

Mr. A. Ray
Mr. T. M. Siddiqui
Mr. S. Mukherjee
Mr. N. Chatterjee.
... For the State

Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned order dated March 18, 2021 passed by the respondent-GST authority and the order of the appellate authority dated August 18, 2021 rejecting the claim for refund to the petitioner on the grounds of limitation.

Learned advocate for the petitioner submits that the impugned order of rejection is bad in law. In support of his contention, he has relied upon an unreported decision of the Bombay High Court dated January 10, 2022 passed in Writ Petition (L) No.1275 of 2021 (Saiher Supply Chain Consulting Pvt. Ltd.-vs-The Union of India & Anr.) and also an unreported decision of the Madras High Court dated September 28, 2021 passed in WP No.18165 of 2021 & WMP Nos. 19386 & 19389 of 2021 (M/s. GNC Infra LLP-vs-Assistant Commissioner (Circle) Ekkatuthangal, Commercial Tax Department) and also my order dated February 2, 2022 passed in WPA No.950 of 2022 (Imran Javed v. Assistant Commissioner, State Tax, Ballygunge Charge & Ors.

Considering the submission of the parties, this writ petition being WPA 8078 of 2022 is disposed of by setting aside the impugned order dated March 18, 2021 and the order of the appellate authority dated August 18, 2021 with a direction upon the first respondent concerned to consider the petitioner's application in question afresh on merits, and not on the point of limitation, and in accordance with law and considering the judgments referred, by passing a reasoned and speaking order, within eight weeks from the date of communication of this order.

(Md. Nizamuddin, J.)