33 15.6.2022
Sc Ct. no.2

WPA 9817 OF 2017

Lohia Jute Press Private Limited
-vs.-
Sales Tax Officer, College Street Charge,
& Ors.

Ms. Sweta Mukherjee
... For the Petitioner

Mr. Anirban Ray
Mr. T. M. Siddiqui
Mr. Debasish Ghosh.

...For the State

In this writ petition, the petitioner has challenged the impugned order of the Fast Track Revisional Authority dated 12th July, 2016 confirming the order of the appellate authority dated 12th November, 2012 for the period 4th Quarter ending 31st March, 2009 confirming the order of the adjudicating authority dated 24th June, 2011 passed in Assessment Case No. 2008-2009/55/02/C/2.

The main issue involved in this writ petition is as to whether holding the job of preparation of Electoral Photo Roll of voters of Uttarakhand as well as preparation of Electronic Photo Identity Card (EPIC) of voters of Uttarakhand as per orders of the Chief Electoral Officer of Uttarakhand as per works contract as defined under Section 2(ja) of the Central Sales Tax Act, 1956 (hereafter referred to as 'the said Act') and considering the amount received on account of the said job from CEO of Uttarakhand as part of turnover of sale as defined under Section 2(j) of the said Act and levying tax thereon is justifiable in law or not.

The petitioner submits that the nature of job activity carried by the petitioner is exempted from tax and in support of such contention the petitioner relies on several judgments of the Hon'ble Supreme Court and different High Courts as referred in the short written notes of argument, filed by the petitioner and contends that the aforesaid impugned orders passed by the adjudicating authority, appellate authority and revisional authority did not consider the aforesaid judgments relied upon by the petitioner as indicated in the short written notes of argument.

Considering the facts and circumstances of the case, I am inclined to remand this matter back to the adjudicating authority concerned by setting aside the aforesaid impugned orders of the revisional authority and appellate authority with a direction upon the adjudicating authority to allow the petitioner to use the written notes of argument, filed in this writ petition in course of hearing and to consider the same in accordance with law and pass a fresh speaking order after giving an opportunity of hearing to the petitioner or its authorised representative within eight weeks from the date of communication of this order.

At the time of fresh consideration of this matter, the adjudicating authority will also take into consideration as to whether the Input Tax Credit (ITC) relating to the relevant period in question has been availed by the petitioner or not.

The interim order of this Court dated 11th May, 2022 shall continue till the date of passing of final adjudication order pursuant to order of this Court.

With these observations and direction, this writ petition being WPA 9817 of 2017 stands disposed of.

There will be no order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Md. Nizamuddin, J.)