18.01.2022
Item No.48-59
Crt. No.16.
KB/RP

CO.TT 1 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
with
CO.TT 10 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
with
CO.TT 11 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
With
CO.TT 12 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
with
CO.TT 2 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
With
CO.TT 3 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
With
CO.TT 4 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
With

CO.TT 5 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
With
CO.TT 6 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
With
CO.TT 7 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
With
CO.TT 8 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.
With
CO.TT 9 of 2021

Jiwanram Sheoduttraj Industries Pvt. Ltd.
-Vs-
Sales Tax Officer, Park Street Charge, Kolkata & Ors.

(Via Video Conference)

Mr. Dhruba Ghosh
Mr. Rohit Banerjee
Mr. Suryaneel Das
Mr. Ashoke Basu
Mr. Altamash Ahir
… For the Petitioner
Mr. A. Ray, ld. G.P.
Mr. T.M. Siddiqui
Mr. S. Mukherjee
Mr. D. Ghosh
Mr. N. Chatterjee
…For State

These civil revisional petitions filed under Article 227 of the Constitution of India seek for various reliefs. The sum and substance of the reliefs sought for is to pay interest on the refund of the tax effected to the petitioners.

The petitioners had approached the West Bengal Taxation Tribunal and filed an application under Regulation 16 of West Bengal Taxation Tribunal Regulation 1989. The prayer sought before the Tribunal was also to effect payment of interest on the refunded amount. The matters were pending before the Tribunal and since no finality was attained the petitioners approached this Court by way of these civil revisional petitions under Article 227 of the Constitution of India.

On an earlier occasion CO.TT 1 of 2021 was directed to be tagged along with another eleven matters. However, we find that the assessee is same in each of these matters and the prayer sought for before the Tribunal as well as before us is slightly different. The essential question relates to payment of interest. In our considered view, no useful purpose would be served in directing the Tribunal to take up the matter as the case has been pending ever since 2016 without any progress. So far as the refund is concerned, Mr. Rohit Banerjee, learned Counsel appearing for the petitioner would submit that whatever refund had been sanctioned has been accepted by the assessee. However, the interest has not been paid and therefore filed application before the Tribunal to issue necessary certificate for realizing the interest which had not been issued by the authorities. In such factual scenario, we are of the considered view that it is the Commissioner of the Sales Tax, West Bengal who is the appropriate authority, who is empowered to consider the claim of the petitioner and to pass orders. When the said authority has not exercised its jurisdiction, we cannot test as to the exact amount of entitlement of the petitioner. Therefore, we are of the view that the matter, which is pending before the Tribunal has to be disposed of and appropriate directions could be issued to the Commissioner of Sales Tax, West Bengal to decide the petitioner's claim.

In the result these civil revision are disposed of and simultaneously the applications pending before the West Bengal Taxation Tribunal filed by the petitioner also stands disposed of by directing the Commissioner of Sales Tax, West Bengal to take a decision in the matter. We direct the petitioner to file a petition in the nature of computation petition clearly stating as to their claim towards payment of interest together with the rate of interest. Such computation petition be filed by the petitioner within thirty days from the date of receipt of the server copy of this order. On receipt of the claim petition the Commissioner of Sales Tax, West Bengal is at liberty to call for a remand report from the concerned Sales Tax Authority within whose jurisdiction the petitioner is registered and after obtaining necessary particulars the petitioner will be provided an opportunity of hearing through virtual mode wherein the petitioner will be permitted to be represented by their authorized representative.

After affording an opportunity of hearing (Through virtual mode) the Commissioner of Sales Tax, West Bengal shall pass a speaking order on merit and in accordance with law and communicate the same to the petitioner within 15 days from the date on which the personal hearing is completed.

We make it clear that all issues are left open and the petitioner is entitled to canvas its claim for payment of interest on the refund which appears to have been sanctioned and not disputed.

Needless to say, if the authority takes a decision and holds that the petitioner is entitled for interest on the refund sanctioned, it goes without saying that the interest shall be settled to the petitioner at the earliest, preferably within a period of three months from the date on which the authority takes a decision in terms of the above directions.

In view of the aforesaid, the civil revisional petitions are disposed of.

(T.S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)