Item no. 07

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice T.S. Sivagnanam
And
The Hon'ble Justice Bivas Pattanayak

MAT 901 of 2022
with
CAN 1 of 2022

M/s. Zoomcar India Pvt. Ltd.
vs.
Union of India & ors.

Appearance:

For the Appellants	:	Mr. Shovendu Banerjee Mr. Soumyajit Mishra
For the State respondent	:	Mr. Anirban Ray, learned G. P. Mr. T. M. Siddiqui,learned A.G.P. Mr. D. Ghosh Mr. D. Sahu
For the Union of India	:	Mr. Subhajit Das
Heard on	:	14.07.2022
Judgment on	:	14.07.2022

T.S. Sivagnanam J.:

Affidavit-of-service filed is taken on record.

We have heard learned counsel for the parties present.

This intra court appeal filed by the writ petitioner is directed against the order dated 09.06.2022 passed in WPA 9808 of 2022 by which the learned Single Judge while granting an order of interim protection to the appellant directed the appellant to deposit 20% of the demand arising out of the adjudicating orders in question within the time frame before the Joint Commissioner of Revenue, State Tax, Kolkata, South Circle. The learned Single Judge also took note of the fact that the appellant had already deposited 10% of the tax and it has been mentioned that the appellant has deposited 10% of the demand.

Learned counsel for the appellant points out that in terms of the statutory provisions, the appellant while preferring the appeal is required to deposit 10% of the disputed tax alone and not 10% of the entire tax which will include the interest and penalty. Learned counsel for the appellant would further submit that the deposit cannot be made to the Joint Commissioner as it has to be made to the Department either through the credit ledger or through the cash ledger.

In our considered opinion, there is no ground made out by the appellant to interfere with the discretion exercised by the learned Single Judge. However, the appellant states that the exercise of discretion may be made in favour of the appellant and the appellant may be directed to deposit 20% of the disputed tax alone before the Department through the credit ledger or through the cash ledger. In our view, such prayer could be made before the learned Single Judge and for such reason, we are not inclined to interfere with the order passed by the learned Single Judge.

Thus, while disposing of this appeal we grant liberty to the appellant to move before the learned Single Judge for appropriate modification of the interim order.

In the light of the above, the appeal stands **disposed of**. Consequently, the connected application stands disposed of.

(T. S. Sivagnanam, J.)

(Bivas Pattanayak, J.)

Chinmoy/Amitava (AR. CT.)