Item No.22.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

HEARD ON: 30.08.2022

DELIVERED ON:30.08.2022

CORAM:

THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM

AND

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. No.1106 of 2022
With
I.A. No.CAN 1 of 2022

Pecon Software Limited & Anr.
Vs.
Union of India & Ors.

Appearance:-
Mr. Subir Sanyal,
Mr. Saikat Ray Chowdhury ..... for the appellants.

Mr. Rahul Dhanuka,
Mr. Harsh Chowdhury ... for the respondent.

Mr. Aryak Dutt .... for the Union of India.

JUDGMENT

(Judgment of the Court was delivered by* T.S. SIVAGNANAM, *J.)

1. This intra Court appeal by the writ petitioners is directed against the order dated 21^{st} June, 2022 in W.P.A. 10352 of 2022.

The writ petition was filed by the appellants alleging non-consideration of his representation dated 1st February, 2022 seeking refund of the tax remitted pending consideration of the application under the Vivad se Vishwas Scheme. It is not in dispute that pursuant to the case having been settled, the appellants have been refunded a sum of Rs. 39,63,587/-. The appellants' grievance is that he had also paid a sum of Rs.25,11,770/-, which is also required to be refunded. Though this grievance was uploaded online, the authority by reply dated 7th April, 2022 stated that refund already issued to the assessee on 29th March, 2022 and the grievance application stands fully resolved. No reasons have been given by the authority as to how the grievance of the appellants stood fully resolved.

2. It may be true that the communication dated 7th April, 2022 is an online communication. However, the online communication should also indicate as to how the case stood fully resolved especially when the representation made by the appellants is for refund / payment of Rs.25,11,770/-.

3. For the above reasons, we are of the view that the authority should pass a speaking order on the representation of the appellants so that the appellants will know as to where he stands and if he is aggrieved, he will be in a position to

pursue other remedies. The online status of the grievance is not a speaking order. Therefore, the appellants do not know as to how in the opinion of the department, the grievance stands fully resolved.

4. In the result, the appeal is allowed. Consequently, I.A. No.CAN 1 of 2022 is disposed of. The order passed in the writ petition is set aside with a direction to the appropriate authority to pass a speaking order on the appellants' representation dated 1st February, 2022 within a period of three weeks from the date of receipt of server copy of this judgment and order.

5. There shall be no order as to costs.

6. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM, J)

I agree,

(HIRANMAY BHATTACHARYYA, J.)

NAREN/PALLAB(AR.C)