Item No.12.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

HEARD ON: 28.09.2022

DELIVERED ON:28.09.2022

CORAM:

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

AND

THE HON'BLE MR. JUSTICE SUPRATIM BHATTACHARYA

M.A.T. No.1202 of 2022
With
I.A. No.CAN 1 of 2022
With
I.A. No.CAN 2 of 2022

Urmila RCP Projects Pvt. Ltd.
Vs.
Tax Recovery Officer, Calcutta & 24 Parganas (N & S) & Ors.

Appearance:-
Mr. Siddhartha Sankar Sengupta,
Mr. Samiddha Sankar Sengupta,
Mr. Sumit Ghosh ..... for the appellant.

Mr. T. M. Siddique,
Mr. Debasish Ghosh .... for the State.

<u>JUDGMENT</u>

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

Re: I.A. No.CAN 1 of 2022

1. This application has been filed to condone the delay of 37 days in filing the instant appeal.

2. We have heard Mr. Siddhartha Sankar Sengupta, learned counsel appearing for the appellant and Mr. T.M. Siddique, learned Government counsel appearing for the respondents/State.

3. We are satisfied with the reasons assigned in the affidavit filed in support of the application. Accordingly, the delay in filing the instant appeal is condoned.

4. The application being I.A. No. CAN 1 of 2022 is allowed.

Re: M.A.T. NO.1202 of 2022

5. This intra-Court appeal is directed against the order dated 18th May, 2022 in W.P.A. No.7771 of 2022. The appellant is aggrieved by the said order because the learned Writ Court did not grant any interim order. The prayer sought for in the writ petition is to rescind the notices for attachment of the appellant's bank account. The appellant's contention is that the amount of Rs.23,33,650/-, which was effected as a pre-deposit by the appellant and paid on 6th August, 2016 has not

been accounted for and a total demand mentioned in the recovery notice is Rs.7,03,04,745/-.

6. After hearing the learned Advocates for the parties and on going through the material papers, we find that there cannot be any dispute to the fact that the appellant has paid a pre-deposit of Rs.23,33,650/-. If that be so, that should be given credit to. According to the appellant, if the said amount is given credit, the balance net tax as per the department will be Rs.98,52,439/-.

7. In our considered view, by keeping the appellant’s bank account attached, it will not only cause grave prejudice to the appellant but would also affect the interest of revenue as the appellant will not be able to carry on its business and consequently, tax cannot be levied and collected.

8. Thus, considering the facts and circumstances of this case, which are peculiar in nature, we direct the appellant to furnish a bond in favour of the appropriate authority for a sum of Rs.98,52,439/- and keep the bond alive till the disposal of the proceedings before the authority. If the appellant executes such bond within three weeks from the date of receipt of the server copy of this judgment and order, the attachment of the appellant’s bank account shall be lifted. Liberty is granted to

the respondent authorities to proceed further against the appellant in accordance with law.

9. With the aforesaid direction, the appeal and the connected application are disposed of.

10. There shall be no order as to costs.

11. 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,

(SUPRATIM BHATTACHARYA, J.)

NAREN/PALLAB(AR.C)