

Item no. 15

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice T.S. Sivagnanam

And

The Hon'ble Justice Supratim Bhattacharya

MAT 1349 of 2022
with
IA No. CAN 1 of 2022

Austin Plywood Private Limited

vs.

Senior Joint Commissioner, Commercial Taxes, Central
Audit Unit-1 & Ors.

Appearance:

For the Appellant : Mr. Anil Dugar
(State) : Mr. Rajarshi Chatterjee
: Mr. Rituraj Chakraborty
: Mr. Gobinda Dey

For the respondent : Mr. A. Ray, Id. G.P.
(State) : Md. T. M. Siddiqui, Id. A.G.P.
: Mr. D. Ghosh
: Mr. N. Chatterjee
: Mr. V. Kothari

Heard on : 27.09.2022

Judgment on : 27.09.2022

T.S. Sivagnanam J.:

This intra-Court appeal is directed against the order dated 18.07.2022 passed in WPA 13052 of 2022 by which the learned Single Judge had observed that there was no scope of passing any interim order and also made an observation that the respondents will be free to take steps to recover the demand in question.

Aggrieved by such direction the appellant is before us by way of this appeal.

The learned Additional Government Pleader pointed out that the order passed by the Revisional Board is dated 29.11.2019 and the writ petition was filed in the year 2022. Taking note of all these factors the learned Single Judge granted liberty to the Department to effect recovery proceeding.

It is the submission of the learned counsel for the appellant that after the Revisional Board had disposed of the matter Form-C declaration has been collected by the appellant and the same is very much in its custody and liberty should be granted to the appellant to submit those Form C declaration before the authority and if the same are taken into consideration the outstanding demand made on the appellant would substantially get reduced. It is settled legal position that even after assessment is completed the assessee would be entitled to produce Form-C declaration and, if it is so produced, the assessing officer should revise the demand.

In the light of the above, that portion of the order passed by the learned Single Judge thereby giving liberty to the respondents to initiate recovery proceeding stands modified with the direction to the appellant to submit the Form-C declaration before the concerned authority and it is for the concerned authority to verify the declaration and if the declaration are found to be in order, the same shall be given effect to and accordingly a revised demand be served on the appellant. Form-C declaration shall be submitted within a period of 30 days from the date of receipt of server copy of this order. Liberty is granted to the appellant to question the revised demand in the pending writ petition.

Hence, the instant appeal stands **disposed of**. Consequently, the connected application stands **disposed of**. No costs.

(T. S. Sivagnanam, J.)

(Supratim Bhattacharya, J.)