Item no. 13

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 1351 of 2022
with
IA No. CAN 1 of 2022

Tide Water Oil Co (India) Limited
vs.
Deputy Commissioner of Commercial Taxes, Lyons Range
& ors.

Appearance:

For the Appellants	:	Mr. Sumit Ghosh Mr. Souradeep Majumder
For the State	:	Mr. A. Ray, ld. G.P. Md. T. M. Siddiqui, ld. A.G.P. Mr. D. Ghosh Mr. N. Chatterjee
Heard on	:	08.09.2022
Judgment on	:	08.09.2022

T.S. Sivagnanam J.:

This intra court appeal filed by the writ petitioner is directed against the order passed on 11.08.2022 in WPA 17729/2022. In the said writ petition the appellant had challenged the order dated 01.11.2021 passed by the authority rejecting the C-Forms issued by Tide Water Oil Co (India) Limited in respect of lubricants which were purchased from the appellant/seller. The learned Single Judge dismissed the writ petition solely on the ground that the order has been passed by the authority in accordance with the statutory provisions and there is no violation of principles of natural justice. Aggrieved by such order, the appellant is before us by way of this appeal.

Heard at length learned counsel for the parties.

After considering the materials on record placed before us, we are unable to persuade ourselves to agree with the conclusion arrived at by the learned Single Judge. We say so because of the underlying principle as to how the C-Form declarations have to be considered. There are several decisions of various Courts which have held that mere technical defect in a C-Form declaration issued by the purchasing dealer should not be a ground to deny the benefit to the selling dealer and the selling dealer shall be entitled to substantiate all other contemporaneous records to establish the genuinity of the transactions and all other details.

Learned counsel for the appellant pointed out that that the C-Form invoice date is 21.07.2015 which is the date on which the products were received by the purchasing dealer. Further, it is pointed out that the correct date which has been reckoned is 21.07.2015 and not 30.06.2015 and if the correct date is reckoned then it falls within the quarter ending September, 2015 and as such there is no defect in the C-Forms issued by the purchasing dealer.

We are prima facie satisfied with the contention placed by the learned counsel for the appellant. However, since the C-Forms have to be considered by the concerned authority, we are inclined to remand back the matter to the authority for fresh consideration.

In the result, the appeal stands **allowed**. Consequently, the connected application also stands disposed of. The order passed in the writ petition is set aside and the writ petition is allowed. The order of rejection of the C-Forms by order dated 01.11.2021, the matter is remanded back to the authority for fresh consideration of the C-Forms. It is seen that in respect of other Forms also the same is the factual position.

Thus, bearing in mind the legal principle as to how the C-Form declarations have been considered, the authority is directed to exercise its jurisdiction in an appropriate manner and in accordance with law. The directions, as stated hereinabove, shall be complied with by the authority within a period of two weeks from the date of receipt of the server copy of this order.

No costs.

(T. S. Sivagnanam, J.)

(Supratim Bhattacharya, J.)

Raja Pal/Amitava (AR. CT.)