20.04.2022.
p.b.
Sl. No.47.

W.P.A. 22997 of 2017

Sheo Kumar Agarwal
Vs.
Senior Joint Commissioner,
Sales Tax, Burrabazar Circle & Ors.

Mr. R. Chatterjee.
........for the petitioner.
Mr. A. Ray,
Mr. T. M. Siddiqui,
Mr. D. Ghosh.
.........for the State.

Heard learned advocates appearing for the parties.

In this writ petition, petitioner has challenged the impugned order dated 26th December, 2016 passed in Revision (VAT) Case No.1280 of 2015-2016 passed by the West Bengal Commercial Taxes Appellate and Revisional Board, confirming the order of the appellate authority dated 4th June, 2015 under Section 9 (2) of the Central Sales Tax Act, 1956 read with Section 84 of the VAT Act passed by the appellate authority disallowing the delivery charge which was maintained by the petitioner separately and, according to the petitioner, the delivery charge is not the sale price under Section 2(h) of the Central Sales Tax Act, 1956. In support of his contention, petitioner relies on a decision of the Hon'ble Supreme Court in the case of State of Karnataka & Anr. Vs. Bangalore Soft Drinks Pvt.

Ltd. reported in (2000) 117 STC 413 (SC). On perusal of the impugned order of the revisional authority, I find that the same is non-speaking and it has simply recorded submission by both the parties but not given its own findings and reasonings and without any discussion.

Considering the submission of the parties, the impugned order dated 26th December, 2016 is set aside and remanded back to the revisional authority concerned to consider and dispose of the revision application by passing the order afresh in accordance with law and by passing a reasoned and speaking order after giving opportunity of hearing to the petitioner or its authorized representatives and at the time of passing the fresh order, the revisional authority shall consider the aforesaid judgment in the case of Bangalore Soft Drinks Private Limited (supra), within eight weeks from the date of communication of this order.

With this observation and direction, this writ petition being WPA No.22997 of 2017 stands disposed of.

(Md. Nizamuddin, J.)