Form No. J.(2)
Item No. 06

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON : 21.12.2022

DELIVERED ON : 21.12.2022

CORAM:

THE HON'BLE MR. JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYA

M.A.T. No. 1936 of 2022
With
IA No.CAN 1 of 2022

INDMODA EXPORTS PRIVATE LIMITED
Vs.
Sales Tax Officer, Ultadanga Charge & Ors.

Appearance:-

Mr. Boudhayan Bhattacharyya
Ms. Sreetapa Sinha
Ms. Stuti Bansal
Ms. Taniya Roy ....for the appellant

Mr. T.M. Siddique
Mr. Debasis Ghosh
Mr. Debraj Sahu .... for the State

JUDGMENT

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

1. This intra-Court appeal filed by the writ petitioner is directed against the order dated 28th November, 2022 passed in W.P.A. No. 22953 of 2022 by which the writ petition was disposed of on the ground that the appellant had the benefit of an order of interim stay passed by the West Bengal Taxation Tribunal dated 5th January, 2015 in case no. R.N. No. 2559 of 2014. The said proceedings were initiated before the learned tribunal questioning a demand raised on the appellant in respect of the period 2009-2010. The specific case of the appellant was that that it has not been served with any assessment order for the said period, consequently, the demand could not have been raised.

2. The State representative appearing for the department on instruction admitted that the copy of the assessment order could not be served on the appellant. Accordingly, the tribunal granted an order of interim stay till the next hearing date. Unfortunately, the next hearing date did not occur and as of now the tribunal is not functioning for want of quorum.

3. In the given facts and circumstances, this Court is of the view that no useful purpose would be served in keeping the proceedings before the tribunal pending and appropriate direction can be issued to the department so that the law can take its course.

4. For the above reasons the appeal is allowed and the order passed in the writ petition is set aside and consequently, the demand/intimation dated 17th October, 2014 issued under the provisions of the WBVAT Act, 2003 is set aside with a direction to the respondent authorities to initiate fresh action against the appellant, if need arises to do so. Connected application also stands disposed of.

5. In the light of the above order, the proceedings before the learned tribunal in case no. R.N. No. 2559 of 2014 also stands disposed of.

6. There shall be no order as to costs.

7. 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.)

RAJA/Pallab, AR(Ct.)