Item No.7.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

HEARD ON: 15.03.2023

DELIVERED ON: 15.03.2023

CORAM:
THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 211 of 2023
With
I.A. No.CAN 1 of 2023

LGW Industries Limited & Anr.
Vs.
Assistant Commissioner, Salt Lake Charge.

Appearance:-

Mr. Vinay Kr. Shraff,
Ms. Priya Sarah Paul,
Ms. Priyanka Sharma .... for the appellants

Mr. T. M. Siddique,
Mr. Debasish Ghosh,
Mr. Debraj Sahu ... for the State of W.B.

JUDGMENT

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

1. This intra-Court appeal by the writ petitioners is directed against the order dated 3rd February, 2023 in WPA No.2304 of

2023. The Learned Single Bench while entertaining the writ petition declined to grant any interim order, which necessitated the appellants to approach this Court by way of this intra-Court appeal.

2. We have elaborately heard Mr. Vinay Kr. Shraff, learned Advocate for the appellants duly assisted by Ms. Priya Sarah Paul, learned Advocate and Mr. T. M. Siddique, learned senior standing counsel for the State of West Bengal. After hearing the learned advocates for a considerable length of time, we are of the view that the writ petition itself can be disposed of as the dispute lies in a very narrow campus.

3. The appellants are aggrieved by the show cause notice issued by the respondent herein dated 29th December, 2022 on the ground that the very same issue is now subject matter of consideration by the Assistant Commissioner, State Tax, Bureau of Investigation, South Bengal (HQ), who has issued notice dated 7th November, 2022. In our considered view, if the subject issue is one and the same or if the subject is inter-related, it is always better that one authority adjudicates the matter. By directing the assessee to face multiple authorities may result

in conflicting decisions. Therefore, not only in the interest of the assessee but in the interest of the revenue also, one authority should take the decision. Admittedly, the Bureau of Investigation, South Bengal is a centralised agency and if that agency has already taken up the matter for consideration and the concerned Assistant Commissioner has issued notice dated 7th November, 2022, it is but appropriate that issues be considered by the said authority including the issue, which has been raised by the respondent in the show cause notice dated 29th December, 2022. Therefore, we are inclined to issue the following directions.

4. In the result, the appeal as well as the writ petition are disposed of by directing the respondent to place the entire file pertaining to the show cause notice dated 29th December, 2022 to the Special Commissioner, State Tax, Bureau of Investigation, South Bengal, Headquarters, Kolkata, who shall in turn direct the said show cause notice and file be placed before the Assistant Commissioner, State Tax, Bureau of Investigation, South Bengal (HQ) and to adjudicate the show cause notice along with the proceedings already initiated pursuant to the notice dated 7th November, 2022.

5. The appellants are directed to submit their reply to the show cause notice dated 29th December, 2022 within 30 days from the date of receipt of the server copy of this judgment and order and the reply shall be submitted to the Assistant Commissioner, State Tax, Bureau of Investigation, South Bengal (HQ). Thereafter, the said authority shall adjudicate all the proceedings in a comprehensive matter, consider the submissions made by the assessee and pass a reasoned order on merits and in accordance with law.

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.)

NAREN/PALLAB(AR.C)