14.01.2025
Item No.23
PG/KS
Ct. No.1

M.A.T. 1770 of 2023
With
I.A. No. CAN 2 of 2024

Sunita Bissa
Versus
Assistant Commissioner of Revenue, Bureau of Investigation, South Bengal Howrah Zone & Ors.

Mr. Anirban Ray, Ld. G.P.
Md. T. M. Siddiqui, Sr. Adv.
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
……….For the Applicants
Mr. Suman Sahani
…..For the Respondent

In Re.: I.A. No. CAN 2 of 2024

1. This application has been filed by the State in M.A.T. 1770 of 2023, which was disposed of by order dated 1st December, 2023. The operative portion of the order is as follows:-

> *"In the light of the above, the appeal stands disposed by directing the appellant to pay 25% of the penalty, which was demanded in the demand dated 31st May, 2023 and furnish a bond for the remaining amount. Upon complying with the twin conditions, the authority concerned shall release the goods in favour of the appellant along with the vehicle, which has also been detained by the respondents. It is made clear that the release of the goods should not be construed that this Court has agreed with the submission of the appellant that the appellant is the owner of the goods. So far as the correctness of the order passed by the Assistant Commissioner of Revenue dated 10th July, 2023, the appellant is directed to file an appeal before the appellate authority within a period of 30 days from the date of receipt of the server copy of this order. If such appeal is filed, the appellate authority shall take up the appeal for consideration without rejecting the same*

on the ground of limitation and also not insist upon any pre-deposit, as this Court has directed the petitioner to pay 25% of the penalty, which is demanded vide demand dated 31st May, 2023. The authority before whom the application for revocation of the order cancelling the appellant's registration has been filed shall also take into consideration such revocation application at an early date preferably within a period of 30 days."

2. In terms of the above order, the appellant therein had to pay 25% of the penalty, which was demanded in the demand dated 31st May, 2023 and furnish a bond for the remaining amount and upon complying with the two conditions, the authority concerned was directed to release the goods in favour of the appellant therein alongwith the vehicle, which was detained.

3. Apart from that the appellant therein was directed to file an appeal against the order passed by the Assistant Commissioner of Revenue dated 10th July, 2023 within a time frame.

4. The learned senior advocate appearing on behalf of the State submitted that though the appellant therein had paid 25% of the penalty and furnish the bond and the goods were released along with the vehicle, till date, they have not preferred the appeal. Therefore, this application has been filed by the State seeking for direction for attachment of the properties and bank account of the appellant.

5. If the appellant has not preferred the appeal challenging the order passed by the Assistant Commissioner of

Revenue dated 10th July, 2023, the Department will be fully entitled to enforce the terms of the order to its full effect and there can be no fetter on the right of the department to proceed further to implement the order passed by the Assistant Commissioner of Revenue dated 10th July, 2023.

6. Accordingly, the department is directed to proceed further in pursuance to the order passed by the Assistant Commissioner of Revenue dated 10th July, 2023 and take all measures, which are available under law for securing the interest of revenue.
7. With the above observations, the application is disposed of.
8. No costs.
9. 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)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)