24.11.2023
Item No.11
RP
Ct. No.1

MAT 1839 of 2023
+
IA No.CAN 1 of 2023

Khatu Shyam Ispat Private Limited & Anr.
Vs.
The State Tax Officer, Directorate of Revenue Intelligence and Enforcement (DRI & Enforcement), Government of West Bengal & Ors.

Mr. Pranit Bag
Mr. Rowsan Kr. Jha
…..for the Appellants

Mr. Anirban Ray
Mr. T.M. Siddiqui
..for the State

1. This intra-Court appeal filed by the appellants is directed against the order dated 24th August, 2023 passed in WPA 18732 of 2023 refusing to grant an interim direction to return the seized cash. We find from the prayers sought for in the writ petition, more particularly, prayer (c), the writ petitioner/appellant has prayed for issuance of a writ of mandamus to return seized cash. Learned Single Bench rightly rejected to grant prayer (c) because granting of an interim order at an interlocutory stage would amount to final relief, which is impermissible. The validity of search and seizure is challenged in the writ petition in its entirety. The Court is to take a decision as to whether such search and seizure was valid and it is

only thereafter the Court, if satisfied, will issue appropriate directions. Therefore, we find no error in the above order passed by the learned Single Bench.

2. The seized cash is now in the hands of the Department and it is not clear as to whether it has been kept in an interest bearing account. Since it may take at least a month for the writ petition to be heard, we direct the respondent Department to deposit the seized cash in an interest bearing account of a nationalized bank and abide by the directions that will be issued in the writ petition when the writ petition is heard and disposed of. In the event, if the appellants succeed in the writ petition, the appellants will be entitled to entire seized cash together with accrued interest. This direction be complied with within a period of three weeks from the date of receipt of the server copy of this order, if not already deposited in an interest bearing account.

3. The respondents are directed to file affidavit-in-opposition to the writ petition not later than 15th December, 2023 and reply thereto, if any, be filed not later than 22nd December, 2023. Liberty is granted to the learned advocate for the appellants to mention the matter before the concerned learned

single Bench for listing the matter during the first week of January 2024.

4. In the result, the appeal and the connected application are dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)