

13 24.11.2023
AN Ct. No. 01

MAT 1922 of 2023
(CAN 1 of 2023)

M/S. JMK Fin Solution Pvt. Ltd. & anr.
Vs.
Deputy Commissioner, State Tax & ors.

Mr. Pranit Bag
Mr. Debdatta Saha
Mr. Lalit Baid
Mr. Apurba Ghoshal
Ms. S. Saha

... for the appellants

Mr. T. M. Siddiqui

... for the State

1. We have heard learned counsel for the parties at length.

2. This intra court appeal filed by the writ petitioners is directed against the order dated 18.09.2023 passed by the learned Single Judge in WPA 22227 of 2023. In the said writ petition, the appellant had challenged the summons issued by the respondent authorities. The learned Single Judge noted that the time to comply the summons has already expired and it does not have any force in the eye of law on the date when the challenge was considered. The said order has been put to challenge in this appeal.

3. Learned counsel for the appellant would vehemently contend that there are several grounds on which the summons was challenged and more particularly, the summons did not specify as to for what purpose the appellant has been summoned to that of an enquiry to be conducted by the respondent authorities.

4. On the other hand, learned counsel representing the State would submit that substantial revenue is involved in the case and investigation is being stalled on the ground that this appeal is pending before this Court.

5. After elaborately hearing learned counsel for the respective parties, the first issue to be considered is as to whether a writ petition is maintainable against the summons which is issued by the authorities. However, this question becomes an academic issue in the present appeal since the time for complying the summons is already expired and as on date, the summons has outlived its validity.

6. Therefore, while preserving all the grounds which have been raised by the appellant in this appeal as well as in the writ petition, this appeal stands **disposed of** on the ground that the summons which was impugned in the writ petition has outlived its validity and, therefore, it will be well open to the appellant to agitate all grounds, in the event, the Department issued fresh summons.

7. Consequently, the connected application also stands disposed of.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)

