

23.11.2023

Sl no. 12

Ct no. 2

P.M.

WPA 24395 OF 2023

Sai Fertilizers Private Limited.

- Vs -

**The Joint Commissioner, State Tax,
Princep Street Charge, Directorate of
Commercial Taxes & Ors.**

Mr. Anil Kumar Dugar

... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader

Md. T. M. Siddiqui,

Mr. T. Chakraborty,

Mr. S. Sanyal

... for the State

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order of the appellate authority dated 7th September, 2021 dismissing the appeal in question of the petitioner on the ground of non-payment of 10% of the disputed tax and not on the merit of the appeal.

Mr. Dugar, learned advocate appearing for the petitioner submits that the whole disputed tax has already been recovered and as such question of making 10% of the disputed tax for filing the appeal in question does not arise.

Mr. Siddiqui, learned Additional Government Pleader representing the respondent was asked to take specific instruction in this regard and on instruction he submits that the submission of the

petitioner is factually true since the whole disputed amount has already been recovered.

Considering the facts and circumstances of this case and submission of the parties this writ petition being WPA 24395 of 2023 is disposed of by setting aside the aforesaid impugned order of the appellate authority dated 7th September, 2021 and the matter is remanded back to the appellate authority concerned to consider and dispose of the appeal on merit, within a period of eight weeks from the date of communication of this order.

In view of the fact that the impugned order of the Tribunal petitioner has been challenged by filing this writ petition on 9th October, 2023 that is after expiry of more than two years with no explanation at all, petitioner shall pay the cost of Rs. 20,000/- to the authority concerned within ten days from date and file proof of the same before the appellate authority concerned and only then appeal will be proceeded.

If petitioner does not pay the cost as indicated hereinabove this order will not have any force.

(Md. Nizamuddin, J.)