Form J(2)

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present :
The Hon'ble Justice Bibek Chaudhuri

WPA 1215 of 2022

Md. Juhur @ Md. Jahur
-Versus-
Tax Recovery Officer & Ors.

For the Petitioner : Mr. Jagriti Mishra,
Mr. Subham Gupta,
Mr. Debayan Goswami,
Mr. Reshab Kumar,
Mr. Raj Kumar Mitra.

For the State : Mr. Bikramaditya Ghosh,
Mr. Momenur Rahman.

Heard & Judgment On : 2nd February, 2023.

The petitioner was registered under the old VAT Act of 2003 with effect from 13th October, 2006. Such registration was voluntary inasmuch as the petitioner submitted himself within the jurisdiction of VAT by offering himself for registration. Subsequently, during the period from 1st April, 2005 to 31st March, 2006 demand for payment of Value Added Tax was made under the old Act of 2003. Contention of the petitioner is that the respondent authority cannot demand Value Added Tax during the period when the petitioner was not registered specially when the petitioner voluntarily registered under VAT.

It is submitted, on the other hand, by Mr. Ghosh, the learned Advocate for the respondents that after the demand was raised the petitioner did not challenge the demand order. Subsequently, recovery proceeding was started and only after an order of attachment of money lying in the Bank of the petitioner is ordered to satisfy the demand the petitioner came up before this Court for quashing the entire proceeding. It is submitted by Mr. Ghosh further that the entire action on the part of the respondents emanates from the demand notice. Now such demand notice can only be challenged before the Tribunal before establish under the said Act.

Mr. Mishra also agrees that when the Tribunal is functioning the petitioner may be given liberty to challenge the demand notice before the Tribunal.

Under such circumstances, the instant writ petition is dismissed on contest. However, the petitioner is given liberty to approach the Tribunal subject to the law of limitation, if any.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 9.