OD - 13

ORDER SHEET

WPO/124/2014
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

M/S WINDOW GLASS LTD
VS
THE JOINT COMMISSIONER OF SALES TAX LYONS RANGE CHARGE & ORS.

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date: 10th January, 2023.

Appearance:
Mr. Debanuj Basu Thakur, Adv.
...For the Petitioner
Mr. A. Ray, Ld. GP
Mr. T.M. Siddiqui, Adv.
Mr. Debasish Ghosh, Adv.
...For the State

The Court: Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order dated 6th September, 2012, passed by the revisional Authority confirming the order of adjudicating authority rejecting the claim of the petitioner under Section 6(2) of the Central Sales Tax Act, 1956 relating to the period 2007-08, by contending that admittedly for the period 2006-07, 2009-10 the said claim has been allowed and even though not any factual difference is there in the impugned period. In addition petitioner in support of its contention relies on an unreported judgment of this Court dated 8th November, 2017 in W.P. 25160 (W) of 2017 (Wesman Simpson Technologies Pvt. Ltd. vs. Deputy Commissioner of Sales Tax Ballygunge Charge & Ors.) and submits that the said case is squarely applicable in the present case of the petitioner. Learned advocate appearing for the petitioner also relies on a circular in support of its contention dated 4th October, 2010 being Trade Circular No. 11/2010 issued by the Commissioner Commercial Taxes, West Bengal.

Mr. Ghosh, learned advocate representing the respondents is not in a position to contradict the allegation of the petitioner and has not been able to distinguish the aforesaid unreported decision.

Considering the facts and circumstances of this case and submission of the parties and taking into consideration the aforesaid unreported decision of this Court as well as the aforesaid circular dated 4th October, 2010, the impugned order dated 6th September, 2012 is set aside and the matter is remanded back to the revisional Authority concerned to consider the matter afresh by taking into consideration the aforesaid unreported decision of this Court dated 8th November, 2017 and the circular dated 4th October, 2010 and pass a reasoned and speaking order after giving opportunity of hearing to the petitioner or its authorised representative, within a period of eight weeks from the date of communication of this order.

With these observations and directions, this writ petition being WPO 124 of 2014 is disposed of.

(MD. NIZAMUDDIN, J.)

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