Form No. J.(2)
Item No.3

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUIONAL WRIT JURISDICTION
APPELLATE SIDE

HEARD ON: 11.02.2025
DELIVERED ON: 11.02.2025

CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

WP.TT 1 of 2025
M/s. Patel Engineering Limited
Vs.
Joint Commissioner, Sales Tax, Siliguri Charge & Ors.

Appearance:-
Mr. Sandip Choraria
Mr. R. Manna

......For the Petitioner

Mr. Anirban Ray, Ld. G.P.
Md. T. M. Siddiqui, Sr. Adv.
Mr. Tanoy Chakraborty
Ms. Sumita Shaw
Mr. Saptak Sanyal

.........For the State

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. The petitioner is aggrieved by the order passed by the West Bengal Taxation Tribunal dated 11th November, 2024 by which the learned Tribunal set aside the order passed by the West Bengal Commercial Taxes Appellate and Revisional Board dated 30th August, 2018.

2. The Revisional Board decided five issues out of which, the petitioner was aggrieved by the finding of the Revisional Board on the following three points/issues:-

> *"(A) enhancement of CTP to the tune of Rs.13,93,93,281/- which is actually the cost of material as supplied by the Contractee and the said amount of Rs.13,93,93,281/- is already included in the Gross CTP and therefore again addition of the same amount of Rs.13,93,93,281/- with the Gross CTP amounts to double taxation;*
> *(B) expenses towards the cost of establishment was restricted to the tune of Rs.5,63,34,813/- instead of petitioner's claim*

> *of 6,27,72,092/- and thereby disallowed a sum of Rs.64,37,279/-;*
>
> (C) *cost of consumables were restricted to the tune of Rs.82,37,601/- instead of petitioner's claim of Rs.88,47,153/- and thereby disallowed a sum of Rs.6,09,552/-;"*

3. The learned Tribunal, while setting aside the order passed by the revisional Board has set aside the order in its entirety and remanded the matter back to the Revisional Board for fresh decision.

4. This could not have been done because the Tribunal could have considered the correctness of the decision of the Revisional Board on the above three issues, which were brought before the Tribunal and in respect of the other issues, which went in fvour of the petitioner, there was no appeal filed by the State. Therefore to that extent, the order passed by the learned Tribunal calls for interference.

5. Accordingly, the writ petition is allowed in part and the impugned order passed by the learned Tribunal setting aside the entirety of the order passed by the Revisional Board is set aside and the matter stands remanded back to the Revisional Board to decide the above three issues alone and in respect of the other issues, the order passed by the Revisional Board is affirmed.

6. Accordingly, writ petition stands disposed of.

7. No costs.

8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

Pallab/KS AR(Ct.)