

24.02.2025
Item No.8
gd/ssd

MAT/183/2025
M/S KHAGAUL LOCO LABOUR'S COOPERATIVE
SOCIETY LTD AND ANR.
VS
UNION OF INDIA AND ORS.
IA NO: CAN/1/2025

Mr. Phatick Ch. Das,
Ms. Soma Choudhury (Bandhu)
..for the Appellants.

Mr. Pinaki Ranjan Chakraborty,
Mr. R.R. Mohanty,
Ms. P. Chowdhury
..for the Respondents.

1. This intra court appeal by the writ petitioner no.1 which is a Cooperative Society is directed against the order dated 15th January, 2025 in WPA 22983 of 2023 wherein the appellant/society claims certain amounts have to be refunded to the society which was recovered by way of a penalty.

2. Earlier the appellants had filed the writ petition in WP 24493(W) of 2012 in which an order was passed on 6th June, 2013 directing the Railway Administration to reconsider the position of deduction of the amount by way of service tax.

3. Pursuant to such direction, the Railways reconsidered the matter and the service tax component which was deducted stood refunded to the appellant/Cooperative Society.

4. Now, the appellant/society seeks claiming the balance amount which was deducted from the bills payable to the appellant/society.

5. The learned writ court was right in holding that the writ court cannot adjudicate such an issue which is admittedly a contractual dispute.

6. The learned advocate appearing for the appellant/society submitted that the writ court was made an observation that there has been enormous delay on the part of the writ petitioners in approaching the court for relief.

7. It is submitted by the learned advocate appearing for the appellant/society that the appellant had approached this court by way of an earlier petition which was disposed of by the order dated 6th June, 2013 and pursuant to such direction, the service tax which was deducted was refunded to the appellant/society but not the remaining amount which was deducted on the ground of penalty.

8. Under normal circumstances, we would have dismissed the appeal and affirmed the order passed by the learned Single Bench.

9. However, taking note of the fact that the appellant is a Cooperative Society, we slightly modify the order passed by the learned Single Bench by directing the appellants to submit a fresh representation to the appropriate authority of the

respondent and if such representation is submitted, the same shall be considered in accordance with law as expeditiously as possible in respect of the claim for refund of the penalty amount.

10. The appellants are directed to enclose a copy of this order along with the said representation.

11. For the above observations and directions, the matter stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)