IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Ct.551 **23.12.25**

Item No.07 Sws.M

WPA 10211 of 2025

Little More Engineering Private Limited
Vs
Union of India & Ors.

Mr. Avra Mazumder
Ms. Alisha Das
Ms. Elina Dey
Ms. Maitreyee Naskar
...for the petitioner

Mr. Soumen Bhattacharjee
Mr. Ankan Das
Ms. Shradhya Ghosh
...for the Income Tax Authority

1. This writ petition assails the action of the respondent/revenue authorities in adjusting the amounts refundable to the petitioner in respect of the assessment year 2024-25 with outstanding demand pertaining to the assessment year 2013-14.

2. An assessment order dated March 11, 2016 under Section 143(3) of the Income Tax Act, 1961 for the assessment year 2013-14 had been passed against the petitioner. The petitioner carried the said assessment order in appeal before the Commissioner of Income Tax (Appeals). During pendency of the appeal, the petitioner made an application under Section 220(6) of the Income Tax Act, 1961, before the Assessing Officer and deposited a sum in excess of 20% of the tax in dispute. The Assessing Officer, upon

considering the petitioner's application under Section 220(6) of the said Act of 2016 stayed the demand.

3. Despite the Assessing Officer having passed an order treating the assesse/petitioner to be not in default in terms of Section 220(6) of the said Act of 1961, the respondents/revenue authorities proceeded to adjust sums refundable to the petitioner in respect of assessment year 2024-25 against the outstanding demand pertaining to the assessment year 2013-2014 which had been stayed by the Assessing Officer under Section 220(6) of the said Act of 1961 by an order dated August 16, 2024 (annexure 'P5' at page 33 to the writ petition).

4. Mr. Mazumder, learned advocate appearing for the petitioner submits that such action of the respondents/revenue authorities is absolutely *de-hors* law. He submits that the petitioner is therefore entitled to refund of the entire sum that has been adjusted from the petitioner's refundable amounts in respect of assessment year 2024-25 against the stayed demand in respect of assessment year 2013-14.

5. Mr. Bhattacharjee, learned advocate appearing for the respondents/revenue authorities submits that the petitioner's appeal may be directed to be disposed of expeditiously instead of directing refund of the sums

adjusted by the order impugned dated April 14, 2025 passed under Section 245 of the said Act of 1961.

6. Instructions forwarded by the Revenue authorities which have been handed up to Court by Mr. Bhattacharjee are taken on record.

7. Heard learned advocates appearing for the respective parties and considered the material on record.

8. Once the petitioner's application under Section 220(6) of the said Act of 1961 was considered and answered favorably by the Assessing Officer and the petitioner was treated to be not in default (i.e. the demand arising out of assessment order dated March 11, 2016 in respect of assessment year 2013-14 was stayed), it was no longer open to the respondents/revenue authorities to make any adjustment against the said stayed demand.

9. It is the petitioner's case, which is not disputed by the respondents/revenue authorities that the petitioner has deposited a sum in excess of 20% of tax in dispute for the purpose of being treated as an assesse not in default.

10. In such view of the matter, the respondents/revenue authorities shall refund to the petitioner the amounts that have been adjusted from the amounts refundable to the petitioner in respect of assessment year 2024-25 against the outstanding demand in respect of assessment year 2013-14, excepting the sum that has

been deposited by the petitioner while seeking stay of demand by way of the petitioner's application under Section 220(6) of the said Act of 1961, within a period of six weeks from the date of communication of this order.

11. It is clarified that the amount that will be refunded to the petitioner will be the amount that has been adjusted in terms of the intimation dated April 14, 2025 (annexure 'P-11' at pages 58 & 59 to the writ petition) and not the amount in excess of 20% voluntarily deposited by the petitioner as aforesaid, as early as possible, preferably within a period of four weeks from the date of communication of this order.
12. Since the petitioner's appeal before the Commissioner of Income Tax (Appeals) has been pending since 2016, the Commissioner of Income Tax (Appeals) shall dispose of the petitioner's appeal as expeditiously as possible preferably within a period of four weeks from the date of communication of this order.
13. WPA 10211 of 2025 stands disposed with the aforesaid observations.
14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

(Om Narayan Rai , J.)