Item No. 02

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Chief Justice T.S. Sivagnanam
And
The Hon'ble Justice Chaitali Chatterjee (Das)

WP.TT 11 of 2025

Orbit Leathers Pvt. Ltd.
vs.
Sales Tax Officer, Ballygunge Charge, & Ors.

For the Petitioner : Mr. Souradeep Majumdar, Adv.

For the Respondents : Mr. Anirban Ray, G.P.
Mr. T.M. Siddiqui, A.G.P.
Mr. Nilotpal Chatterjee, Adv.
Mr. Tanoy Chakraborty, Adv.
Mr. Saptak Sanyal, Adv.

Heard on : 26th June, 2025.

Judgment on : 26th June, 2025.

T.S. Sivagnanam, CJ.:

1) This writ petition is directed against the order dated 28th June, 2024 passed by the West Bengal Taxation in RN-65 of 2022. In the said revisional application the petitioner had challenged the order passed by the Fast Track Revisional authority dated 25th November, 2021, by which the revisional application under section 87A of the West Bengal Value Added Tax, 2003 (hereinafter referred to as 'the said Act') was dismissed affirming

the order passed by the Joint Commissioner, Commercial Taxes, South Circle, Kolkata, under section 84 of the said Act relating to the period 2014-15 which relates to the assessment order dated 29th June, 2017, passed under section 46 of the said Act.

2) We have elaborately heard the learned advocates appearing for the parties.

3) Upon hearing the submissions made by the learned advocates for the parties and carefully perused the materials placed on record we find that the assessing officer, appellate authority and the revisional authority have taken three different stands against the petitioner. The assessing officer has examined the documents which have been produced by the petitioner and the statement of claim of ITC. Prima facie the statement of claim was found to be in order and sanctioned the claim in respect of certain goods but, however, denied the same in respect of 23 transactions of which 14 were rejected on the ground that the goods purchased are not eligible for ITC and remaining were rejected on the ground that the seller did not confirm the sale. When the matter was taken up on appeal before the appellate authority the allegation against the petitioner was changed and it was alleged that the petitioner did not produce any document otherwise contested by the petitioner stating that all documents were available with the assessing officer and if verification is done the entire claim of ITC would have been accepted. However, the appellate authority dismissed the appeal on 13th March, 2018. The petitioner carried the matter before the Fast Track Revisional authority before whom the stand taken by the department was entirely different stating that the petitioner has not produced the original tax invoice for purchase of goods. With these reasons, the revision

was dismissed on 25th November, 2021, which order has been affirmed by the learned tribunal.

4) If the stand taken by the learned tribunal is found to be factually incorrect, then the order passed by the revisional authority requires to be reconsidered, more so, when the assessing officer himself says that the statement of claim of ITC was checked with regard to the documents. According to the petitioner, they are not clear as to what are the allegations against the petitioner and as to whether goods purchased are not eligible for ITC and/or whether it was on account of the seller not affirming the sale or whether documents were not produced original tax invoice. Thus, a confusion arises in the minds of the petitioner which is justified. In any event, if documents are available with the petitioner then an opportunity should be given to the petitioner-dealer to place the same before the assessing officer so that the matter can be considered insofar as those claims which were rejected by the assessment order dated 29th June, 2017.

5) Accordingly, the writ petition is allowed and the order passed by the tribunal, fast track revisional authority and the appellate authority as well as the assessment order are set aside and the matter is remanded to the Commercial Tax Officer, Ballygunge Charge to consider the claim of ITC which was rejected and tabulated the page-4 of the assessment order in serial No.1 to 23. The writ petitioner shall be given an opportunity of personal hearing in which he shall produce all documents that may be called for by the assessing officer and after considering all the documents afresh an order be passed on merit and in accordance with law. The above exercise shall be completed within a period of four weeks from the date of

receipt of the server copy of this order and the petitioner is directed to co-operate in early disposal of the matter.

6) Urgent photostat certified copy of this judgment, if applied for, be delivered to the learned advocates appearing for the parties upon compliance of all formalities.

(T. S. Sivagnanam, CJ.)

I agree.

[Chaitali Chatterjee (Das), J.]

RP/SM