12.09.2025
Item No.04
Ct. No. 1
RP/SM

WPTT 59 of 2012

State of West Bengal & Ors.
Vs.
M/s. Tarway Export

Mr. Tanoy Chakraborty
Ms. Sumita Shaw
Mr. Saptak Sanyal
....For Petitioner
Mr. Avra Mazumder
Ms. Alisha Das
Mr. Suman Bhowmik
Mr. Samrat Das
Ms. Elina Dey
....For Respondent

1. This writ petition has been filed by the State challenging the order passed by the West Bengal Taxation Tribunal in Case No.RN-146/2011. The respondent herein filed an application before the learned Tribunal challenging the order of assessment thereby Input Tax Credit was disallowed.

2. The respondent manufactured leather goods after purchasing finished leathers from the registered dealers in West Bengal. The entire goods manufactured are meant for export. This factual position has not been disputed by the Department. During the period covering the four quarters ending on 31.03.2008 the respondent filed returns under VAT Act, 2003, declaring its gross turnover at

Rs.10,48,77,480/-. As noted above, the goods manufactured were exclusively meant for export. As a result of which no output tax was payable by the respondent. The Sales Tax Officer, Bhawanipur Charge initiated assessment proceeding against the respondent and in the aforesaid proceeding the respondent claimed refund of the amount under Section 61 of the VAT Act, 2003 read with Rule 76 of the VAT Rules, 2005. The Sales Tax Officer accepted part of the claim of input tax credit to the tune of Rs.25,67,511/- and the remaining Rs.2,52,455.35 was rejected on the ground that the respondent had purchased goods worth Rs.75,959/- from M/s. Akram Leather Corporation and the entire claim of Input Tax Credit was rejected. Upon verification it was found that the respondent had actually purchased goods worth Rs.60,247.42 from the said supplier and in view of wrong figures and statements being submitted by the respondent the Input Tax credit was disallowed. This action of the Department was put to challenge by the respondent and statements of account were also furnished, which were placed for consideration of the learned Tribunal. It was argued that the claim for Input Tax Credit has not been verified and reasonable time has been sought for the purpose of reverification. The learned Tribunal noted that the claim made by the respondent for Input Tax Credit is on account of the goods were being manufactured for the purpose of export, which factual position has not been challenged by the State. The Tribunal further noted that the respondent had placed several documents to establish its stand with regard to the value of goods purchased from the said supplier during the period from 1.4.2007 to 31.03.2008 and the Department had sufficient material to verify it. However, without doing so the Department came up with another plea that the amount of Rs.5,27,990/- is not sustainable as the respondent herein did not submit documents regarding despatch. The Tribunal, in our view, has rightly noted that the transaction were done several years back and the respondent herein had come up with positive statements that the sellers in their respective returns have confirmed the factum of sale of goods to the respondent and the respective sellers have filed returns indicating the sale which has not been rebutted or disputed by the Department at any point of time. Therefore, the learned Tribunal came to the conclusion that it is not fair on the part of the Department to call for production of detailed evidence of despatch after such a long passage of time. Thus, being satisfied that there was evidence regarding supply of goods to the respondent herein as borne out in the returns submitted by the respective sellers, the Tribunal concluded that the ITC claimed by the respondent herein cannot be rejected. It appears that the Tribunal granted sufficient time to the Department to respond by bringing a positive statement as to whether the claim of Rs.7.41,486/- by way of Input Tax Credit is sustainable. However, the Department did not respond to the opportunity granted by the learned Tribunal. Therefore, the Tribunal concluded rightly that there was no justification for withholding the balance amount of Rs.12,69,477/-.

3. Thus, we find that the Tribunal after having carefully analyses the documents placed on record and also various opportunities granted to the Department which were not utilized by the Department and more, particularly, the fact that all the goods which were manufactured from the raw material purchased were meant for export and rightly granted reliefs as sought for by the

respondent before the learned Tribunal. Thus, we have no ground to interfere with the impugned order. Accordingly, the writ petition fails and is dismissed.

4. Urgent Photostat copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

[T.S. SIVAGNANAM]
CHIEF JUSTICE

[CHAITALI CHATTERJEE (DAS), J.]