OD-14

WPO/204/2025
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

Rainbow Ventures Pvt. Ltd.
Versus
Income Tax Officer, Ward 8/1, Kolkata & Ors.

Before:
The Hon'ble Justice RAJA BASU CHOWDHURY
Date: 15th May 2025

Appearance:
Ms. Swapna Das, Advocate
Mr. Siddharth Das, Advocate
for the petitioner

Mr. Prithu Dudheria, Advocate
for the respondents

The Court:

1)The instant writ petition has been filed inter alia praying for a direction upon the respondents to refund a sum of Rs.3,91,678/- for the assessment year 2014-15 which has been approved by the Principal Commissioner of the Income Tax – 1, Kolkata in favour of M/s. KNS Exports Private Limited, a company which had been amalgamated with the petitioner pursuant to and in terms of the order passed by the National Company Law Tribunal, Kolkata in Company Petition CP(CAA) No. 301/KB/2019 dated 9th July 2019 sanctioning the scheme of amalgamation.

2)Learned advocate for the petitioner by drawing attention of this Court to the order dated 9th July 2019 would submit that M/s. KNS

Exports Private Limited is referred to in the said scheme so sanctioned by the aforesaid order as the transferor company, while the petitioner is referred to as transferee company. It is submitted that by the aforesaid order the scheme of amalgamation was approved/sanctioned which inter alia, provides that on and from the appointed date i.e. 1st April 2018 any refund under the tax laws due to the transferor company consequent to the assessments made on the transferor company for which no credit is taken in the accounts as on the date immediately preceding the appointed date shall also belong to and be received by the transferee company. It is submitted that the Income Tax Officer, Ward – 2(1) Kolkata has since on 8th February 2022 passed an assessment order under the (Vivad Se Vishwas Act) whereunder the aforesaid sum of Rs.3,91,678/- has become refundable to the aforesaid KNS Exports Private Limited. The petitioner has duly by a communication dated 22nd July 2022 brought the factum of amalgamation with the aforesaid KNS Exports Private Limited to the notice of the Income Tax Officer including the fact that the petitioner has surrendered the PAN of KNS Exports Private Limited.

3) in furtherance to the above, by a communication in writing dated 2nd April 2024 the petitioner had also requested the Joint Commissioner of Income Tax to credit the refund payable to M/s. KNS Exports Private Limited upon its amalgamation, in favour of the petitioner. According to the petitioner, despite the aforesaid representations no steps have been taken by the respondents.

4) Mr. Dudheria, learned advocate appears on behalf of the respondents.

5) Having heard the learned advocates representing the respective parties and noting that the scheme of amalgamation has been sanctioned by National Company Law Tribunal, Kolkata Bench in CP(CAA) No. 301/KB/2019 dated 9th July 2019 whereunder the said KNS Exports Private Limited stood amalgamated with the petitioner on and from the appointed date being 1st April 2018, and having regard to the terms of the scheme, I am of the view that if the refund has already not been effected in favour of KNS Exports Private Limited, appropriate steps should be taken by the respondents to process the petitioner's representation and effectuate the refund in favour of the petitioner. A decision in this regard must be taken by the respondents upon giving an opportunity of hearing to the petitioner preferably within a period of four weeks from the date of communication of this order.

6) The instant writ petition is accordingly disposed of.

7) There shall be no order as to costs.

(RAJA BASU CHOWDHURY, J.)

R. Bose