Ramashanker Lakshmi Narayan And Bros. v. Union Of India And Another

WRIT TAX No. 188 of 2023 | Decision: 2023-03-01 | Allahabad High Court

Court No. - 29

Case :- WRIT TAX No. - 188 of 2023

Petitioner :- Ramashanker Lakshmi Narayan And Bros. Respondent :- Union Of India And Another Counsel for Petitioner :- Nikhil Agrawal Counsel for Respondent :- A.S.G.I.,Gaurav Mahajan,Gopal Verma

Hon'ble Pritinker Diwaker,Acting Chief Justice Hon'ble Saumitra Dayal Singh,J.

1. Heard Sri Nikhil Agrawal, learned counself or the petitioner;

Sri Gopal Verma, learned counsel for the Union of India and Sri

Gaurav Mahajan, learned counsel for the revenue.

2. Challenge has been raised to the order dated 28.11.2022

passed by the Commissioner, CGST & Central Excise,

Commissionerate Varanasi, levying national calamity

contingent duty Rs. 7,80,99,327/- on the petitioner alongwith an

equal amount of penalty.

3. Submission is, the aforesaid demand is wholly without

authority of law inasmuch as the merchant exporter had

exported the entire quantities of goods. Therefore, the liability

would never arise on the transaction.

4. The legality of the levy as also the other grounds pressed may

also remain available to the petitioner in the appeal

proceedings, if preferred. The limitation to file the appeal is

about to expire on 04.03.2023.

5. On the other hand, learned counsel for the revenue has raised

a preliminary objection as to maintainability of the present

petition. He would submit, factual disputes are also involved

which may be considered by the appeal authority.

6. Having heard learned counsel for the parties and having

perused the record, in face of statutory alternative remedy of

appeal available, in a taxation matter, the Court may always go

slow in entertaining a writ petition, specially after the assessee

has availed the opportunity to show cause and an adjudication

order has been passed. Therefore, interference claimed under

Article 226 of the Constitution of India is declined.

7. In the entirety of the facts and circumstances of the case, present petition is disposed of with the observation, in case the petitioner files statutory appeal after complying the terms and conditions to file such appeal, within a period of two weeks from today, that appeal may be heard and decided by the appeal authority, as expeditiously as possible, without raising any objection as to limitation. Any stay application filed therein, may also be considered, on own merits.

8. It is made clear, we have not examined the merits of the case.

Order Date :- 1.3.2023 Abhilash .

(S. D. Singh, J) (Pritinker Diwaker, ACJ)

2023-03-01T16:02:58+0530 High Court of Judicature at Allahabad