(2020) 11 KL CK 0226

In the High Court Of Kerala

Case No : Review Petition No. 915 Of 2020 In Writ Petition (Civil) No. 14031 Of 2020

Assistant Commissioner And Ors — APPELLANT

Vs

M/S. Steel Exchange India Ltd — RESPONDENT

Date of Decision : 30-11-2020

Acts Referred:

Citation : (2020) 11 KL CK 0226

Hon'ble Judges : A.K. Jayasankaran Nambiar, J

Bench : Single Bench

Advocate : Dr. Thushara James, Harisankar V. Menon

Final Decision : Dismissed

Judgement

1. The Review Petition is preferred against the judgment dated 24.07.2020 in W.P(C).No.14031 of 2020. By the said judgment, this Court had

disposed the Writ Petition with the following direction:

â??3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that, although it is the specific

case of the learned Government Pleader that, under the Amnesty Scheme, there is no provision for an adjustment of refund amounts towards amounts

found payable by an applicant seeking the benefit of Amnesty Scheme, the adjustment in question does not in any manner offend the Amnesty

Scheme or do violence to its language. As already noted, it is not in dispute that the petitioner has been found entitled to various amounts by way of

refund by Ext.P2 series of orders. The department has not preferred any appeal against the said order so as to cast any doubt on the entitlement of

the petitioner for the refund amount. In that scenario, when amounts are liable to be paid by the petitioner to the department for the purposes of getting

the benefit of the Amnesty Scheme, an adjustment of the refund amounts due to the petitioner towards whatever amount is found payable by the

petitioner, would not in any manner offend the terms of the Scheme because it is simply an adjustment towards the payment to be made under the

Scheme. I, therefore, allow the Writ Petition by directing the respondents to appropriate the amounts determined as payable by the petitioner under the

Amnesty Scheme, from the amounts due to the petitioner by way of refund pursuant to Ext.P2 series of orders, and thereafter, release the balance

amount of refund to the petitioner, expeditiously.â??

2. In the Review Petition, it is the contention of the review petitioners that the Amnesty Scheme does not provide for any set off of amounts due to the

petitioner from amounts due from the petitioner and further, in the instant case, the refund amounts became due to the petitioner only on account of his

opting for the Amnesty Scheme. On a consideration of the said submission advanced on behalf of the review petitioners, I find the same to be

fundamentally flawed in its assumption that the petitioner became entitled for the refund only on account of his option under the Amnesty Scheme. As

already noted in the judgment impugned, the petitioner's entitlement for refund was independent of the scheme, and pertaining to assessment years

different from the ones that he had opted for under the Amnesty Scheme. The option exercised by the petitioner under the Amnesty Scheme had the

result of reducing the liability of the petitioner, in respect of the assessment years for which he had opted. The impugned judgment only directed that

the amounts due from the petitioner under the Amnesty Scheme be set off against the amounts admittedly due to the petitioner by way of refund. I do

not see how such a direction would fall foul of the Amnesty Scheme in particular or the statutory Scheme under the KVAT Act in general. I therefore

find no merit in the Review Petition, and the same is accordingly dismissed.

