(2013) 04 AHC CK 0338

In the Allahabad High Court

Case No : Writ Tax No. 1811 of 2008

Bright Electric Co. APPELLANT

Vs

Asst. Commissioner RESPONDENT

Date of Decision : 05-04-2013

Acts Referred:

Citation : (2014) 71 VST 425

Hon'ble Judges : Ram Surat Ram (Maurya), J;Prakash Krishna, J

Bench : Division Bench

Judgement

1. The petitioner is a registered firm under the U.P. Trade Tax Act and is carrying on the business of receiving small work orders of electric items supply and also laying down of cable network. The dispute relates to the assessment year 2003-04. The assessment order was passed on January 31, 2007 creating a demand of Rs. 84,324. Being dissatisfied with the assessment order, the said order was rectified u/s 22 of the Act on April 23, 2007 and the demand was reduced to Rs. 30,781.20.

2. The matter was carried in appeal before the Joint Commissioner (Appeals), Trade Tax-II Noida who vide his order dated September 18, 2007 allowed the appeal in part and reduced the tax liability by Rs. 19,927.

3. The present writ petition is in the nature of mandamus directing respondent No. 1 to refund a sum of Rs. 1,67,353 along with interest and interest on interest for the assessment year 2003-04.

4. Sri Suyash Agarwal, learned counsel for the petitioner, submits that title petitioner has received the aforesaid amount during the pendency of the writ petition. The said fact also finds mention in sub-para. S of para. 3 of the counter-affidavit. Now, the dispute remains with regard to the payment of interest.

5. It could not be disputed by Sri C.B. Tripathi, learned special counsel for the respondents, that payment of interest on the aforesaid refund amount is

statutory liability u/s 29 of the U.P. Trade Tax Act. The said section provides that if the refund is not granted within three months from the date of the receipt of order, the Department shall be liable to pay interest from the date of receipt of the order. In other words, grace period of three months, to avoid the payment of interest has been provided for, which has not been availed of in the present case.

6. In the present case, the order of the first appellate authority is dated September 18, 2007 and it is stated by the petitioner that the said order was received by the petitioner on September 20, 2007.

7. In view of section 29 of the U.P. Trade Tax Act, the petitioner is clearly entitled to get interest at the rate of 18 per cent per annum on a sum of Rs. 1,67,353 from September 20, 2007 to February 11, 2008. Interest shall be paid within one month from the date of production of the certified copy of this order before respondent No. 1. It is made clear that if the respondent fails to pay the interest as directed above within the stipulated time, they will also be liable to pay interest upon interest at 10 per cent per annum from the date of production of certified copy of this order till the date of actual payment.

8. It is a case where the respondents have failed to discharge their statutory obligation, therefore, the respondents shall pay a sum of Rs. 10,000 as cost to the petitioner. The said amount shall also be paid by the respondents to the petitioner within the aforesaid period of one month. The petition is allowed.