(2004) 01 JH CK 0082

In the Jharkhand High Court

Case No : Writ Petition (T) No. 5007 of 2003

I.T.W. Signode India Ltd. (II) — APPELLANT

Vs

State of Jharkhand and Others — RESPONDENT

Date of Decision : 14-01-2004

Acts Referred:
Bihar Finance Act, 1981 — Section 43

Citation : (2004) 2 JCR 212

Hon'ble Judges : P.K. Balasubramanyan, C.J;Tapen Sen, J

Bench : Division Bench

Advocate : M.S. Mittal, for the Appellant; K.K. Jhunjhunwala and Pradip Modi, G.P. I, for the Respondent

Final Decision : Allowed

Judgement

P.K. Balasubramanyan. C.J. and Tapen Sen, J.—Heard both sides.

2. This is an application by the petitioner for refund of the tax paid under the Bihar Finance Act in excess of its liability to tax under that Act for the assessment year 1995-96. According to the petitioner, a sum of Rs. 5,96,309 is due by way of refund. According to the department, on verification of the records as of now, it was found that the petitioner was entitled to a refund of Rs. 4,60,421 and the same was refunded to it as per refund voucher dated 03.01.2003. It is further stated in paragraph 7 of the supplementary affidavit, that by letter dated 03.01.2004, the department has requested the Treasury Officer, Jamshedpur to verify the rest of the amounts claimed by the petitioner. Whatever is found due on further verification, would be paid to the petitioner as soon as certified by the Treasury Officer. In other words, it is spelt out that further verification is being made with the help of the Treasury officer, Jamshedpur and after that verification any further amount found payable will be refunded.

3. It appears to us that the respondents cannot take their own time for making a

refund. Refund must be made within a reasonable time. The statute has considered six months from the date of application as reasonable and has provided that interest should be paid after the expiry of six months. This scheme of the Act cannot be defeated by the respondents by sitting on applications for refund. It is their duty to look into the relevant documents in time and to make the refund in time and with interest, as envisaged by the statute, if they are not able to complete the process within the stipulated time. We hear repeated complaints that all is not well in that Department and delays in refund of deliberately caused with ulterior motives. It is necessary for the concerned in the Government to take steps to ensure that no room is given for such complaint in future. One step would be to make that officer or those officers responsible for the interest on refund that the State is oblige to pay to an assessee u/s 43 of the Act and recover the same from his or their salaries or from the emoluments due to them. This is for the Government to seriously consider.

4. We, therefore, direct the respondents to verify, as undertaken by them in paragraph 7 of the supplementary counter-affidavit, the details of the payments that have been made and refund the amount that is found refundable expeditiously. This exercise would be completed by the respondents within six weeks of the receipt of a copy of this order. Obviously, whatever interest is payable u/s 43 of the Bihar Finance Act will also have to be paid to the petitioner.

5. The writ petition is allowed in the above manner.

6. The Registry to communicate a copy of this order to the Secretary, Finance, Government of Jharkhand and the Com missioner of Commercial Taxes to consider the suggestions made herein and to take the necessary steps.

