(2015) 05 AHC CK 0105

In the Allahabad High Court

Case No : Writ Tax No. 354 of 2015

Om Shiv Transport APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 12-05-2015

Acts Referred:

Citation : (2015) 51 GST 766

Hon'ble Judges : Arun Tandon, J;Surya Prakash Kesarwani, J

Bench : Division Bench

Advocate : S.D. Singh and Nishant Mishra, for the Appellant; Gyan Prakash, Ramesh Chandra Shukla and Ravi Prakash Srivastava, Advocates for the Respondent

Judgement

1. Heard Sri S.D. Singh, learned Senior Advocate assisted by Sri Nishant Mishra, learned counsel for the petitioner and Sri Ashok Mehta, learned A.S.G.I. and Sri Gyan Prakash and Sri R.C. Shukla, learned counsels for the respondents. Affidavit filed by the Registrar, Custom Excise and Service Tax Tribunal, New Delhi is taken on record.

2. Notification for constitution of a Bench of the Custom Excise and Service Tax Appellate Tribunal at Allahabad was made by the Central Government as early as on 01.11.2013 along with Benches to be established at Hyderabad and Chandigarh. At Hyderabad the Bench has been established. At Chandigarh a circuit Bench has been made operational. It is only at Allahabad that the Bench of the Tribunal is not being established despite the notification made nearly two years ago.

3. Only explanation furnished before this Court is that a letter was written by the Registrar of the Tribunal at New Delhi to Chief Secretary, U.P. Government, Lucknow to provide suitable accommodation at Allahabad for establishment of the Bench, which has not been responded.

4. Letter dated 14.11.2013 was followed by a letter from the State Government

to the Collector, Allahabad dated 17.12.2013 for the same purpose. What has happened thereafter is not known.

5. We fail to understand as to why the Central Government itself could not provide suitable accommodation for Tribunal specifically when it has large space available at 38 M.G. Marg, Civil Line, Allahabad.

6. We have been informed that earlier an Income Tax Appellate Tribunal operational in the same premises has been shifted to Lucknow. Therefore the space which was earlier occupied by the Income Tax Tribunal at Allahabad is now available for use for the Custom Excise and Service Tax Appellate Tribunal.

7. We are of the considered opinion that the notification issued for constitution of a Bench as early in the year 2013 cannot be permitted to be frustrate and made a waste paper for years only because of in action on the part of the State or its departments.

8. The respondents must ensure utilization of the space available at 38 M.G. Marge Civil Line, Allahabad for establishment of the Bench and thereafter they require any additional accommodation, the Central Government may either provide any of its own property at Allahabad or it may request the State Government to do so. For the facts which have been noted above be issue following directions:--

"(a) Let State of U.P. through Chief Secretary be impleaded as respondent No. 6 during the course of the day. Notice on behalf of respondent No. 6 has been accepted by learned Standing Counsel.

(b) The respondents Nos. 1 and 2 shall ensure that a Bench of Custom Excise and Service Tax Tribunal becomes operational at Allahabad atleast new cases to be filed w.e.f. 01.07.2015.

(c) The respondent No. 1 shall file his personal affidavit indicating as to why the State has not responded to the request letter dated 11.12.2013 till date and what reply was received from the District Magistrate, Allahabad in respect of accommodation for establishment of full fledged Tribunal.

(d) The respondent No. 1 may file an affidavit of an officer not below the rank of a Secretary as to why the property owned by the Union of India in the city of Allahabad including 38 M.G. Marg, Civil Line, Allahabad cannot be suitably provided for establishment of a Bench of the Tribunal at Allahabad.

(e) The Commissioner of Central Excise shall file his personal affidavit indicating space available with the Tribunal at Allahabad and as to why it cannot accommodate a regular Bench at Allahabad, till suitable alternate arrangements are made."

We hope and trust that there shall be no request for further time be granted in the matter. The Court has been informed that complete infrastructure for establishment for one Bench of Tribunal is at present available at 38 M.G. Marg, Civil Line, Allahabad i.e. the portion, which is lying unused after shifting of one of the Income Tax Tribunals to Lucknow.

