

(2022) 08 CAL CK 0086
In the Calcutta High Court

Case No : M.A.T. No.1106 Of 2022, I.A. No. CAN 1 Of 2022

Pecon Software Limited & Anr.

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 30-08-2022

Acts Referred:

Citation : (2022) 08 CAL CK 0086

Hon'ble Judges : T. S. Sivagnanam, J;Hiranmay Bhattacharyya, J

Bench : Division Bench

Advocate : Subir Sanyal, Saikat Ray Chowdhury, Rahul Dhanuka, Harsh Chowdhury, Aryak Dutt

Final Decision : Allowed

Judgement

1. This intra Court appeal by the writ petitioners is directed against the order dated 21st June, 2022 in W.P.A. 10352 of 2022. The writ petition was filed by the appellants alleging non-consideration of his representation dated 1st February, 2022 seeking refund of the tax remitted pending consideration of the application under the Vivad se Vishwas Scheme. It is not in dispute that pursuant to the case having been settled, the appellants have been refunded a sum of Rs. 39,63,587/-. The appellants' grievance is that he had also paid a sum of Rs.25,11,770/-, which is also required to be refunded. Though this grievance was uploaded online, the authority by reply dated 7th April, 2022 stated that refund already issued to the assessee on 29th March, 2022 and the grievance application stands fully resolved. No reasons have been given by the authority as to how the grievance of the appellants stood fully resolved.

2. It may be true that the communication dated 7th April, 2022 is an online communication. However, the online communication should also indicate as to how the case stood fully resolved especially when the representation made by the appellants is for refund / payment of Rs.25,11,770/-.

3. For the above reasons, we are of the view that the authority should pass a

speaking order on the representation of the appellants so that the appellants will know as to where he stands and if he is aggrieved, he will be in a position to pursue other remedies. The online status of the grievance is not a speaking order. Therefore, the appellants do not know as to how in the opinion of the department, the grievance stands fully resolved.

4. In the result, the appeal is allowed. Consequently, I.A. No.CAN 1 of 2022 is disposed of. The order passed in the writ petition is set aside with a direction to the appropriate authority to pass a speaking order on the appellants' representation dated 1st February, 2022 within a period of three weeks from the date of receipt of server copy of this judgment and order.

5. There shall be no order as to costs.

6. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.