(2017) 03 JH CK 0126

In the Jharkhand High Court

Case No : 1967 of 2016

WORKMEN REPRESENTED BY STATE JOINT SECRETARY — APPELLANT

Vs

PRESIDING OFFICER, CENTRAL GOVT INDUSTRIAL TRIBUNAL NO 2 & ANR. — RESPONDENT

Date of Decision : 09-03-2017

Acts Referred:

Jharkhand Value Added Tax Act, 2005, Section 44, Section 44

Citation : (2017) 03 JH CK 0126

Hon'ble Judges : D. N. Patel, Ratnaker Bhengra

Bench : DIVISION BENCH

Advocate : Nitin Kumar Pasari, Ranjana Mukherjee, Sudhir Kumar Singh,Ankit Vijay, Rajesh Kumar, Saurav Arun

Judgement

1. Learned counsel for the petitioner submitted that suffice it will be for the disposal of this writ petition at this stage that if this Court is giving direction to the respondent-State to decide the refund application to be preferred by this petitioner to the Joint Commissioner of Commercial Taxes, Ranchi Division, Ranchi on the basis of the documents which are annexed with the affidavits filed on behalf of the petitioner in this writ petition and also on such other documents which may be filed by the petitioner at the time of hearing before the Joint Commissioner of Commercial Taxes, Ranchi Division, Ranchi. It is further submitted by the learned counsel for the petitioner that basically under Sarva Shiksha Abhiyan, Notice Inviting Tender was published on 22.01.2010, 29.01.2010, 04.12.2010, 18.12.2010, 24.09.2012, 25.09.2012, 24.06.2014, 01.07.2014, 27.02.2015 and 22.06.2015 for printing and supply of books for different academic sessions. This contract was given to this petitioner at Ranchi and in fact, the printing has been made at Ranchi, Jharkhand; raw materials were purchased at Ranchi and ultimately, printed books were supplied in the State of Jharkhand and, hence, as per Schedule I - list of goods exempted from

payment of Value Added Tax appended to Jharkhand Value Added Tax Act, 2005, the books, periodicals and the journals including maps, charts and globes and brail books being a Registered Dealer of State of Jharkhand. This is to be read with the notification issued by the State of Jharkhand, Commercial Taxes Department''s Notification being S.O. No.208 dated 30th March, 2006 and no TDS can be deducted under Section 44 of the Jharkhand Value Added Tax Act, 2005. On the basis of this Schedule I to be read with the aforesaid notification issued under Section 44 of the Act of 2005, the TDS deducted by the Jharkhand Education Project Council is de hors the provision of the Act of 2005 and, hence, at least the said deducted TDS amount be refunded by the State of Jharkhand, because, the Jharkhand Education Project Council has already deposited TDS deducted from the bills of this petitioner at the rate of 2% to the Government of Jharkhand on 31st March, 2016.

2. Thus, this petitioner is in search of adjudication of the refund application in accordance with law on the basis of the documents which are annexed with the affidavit filed by the petitioner as well as on the basis of other documents which are to be filed by the petitioner during the course of hearing.

3. In view of these submissions, we, hereby, direct the respondent-State to decide the application for refund to be preferred by this petitioner within a period of eight weeks from the date of receipt of the representation, on the basis of the documents on record along with the affidavits filed by the petitioner as well as on the basis of such other documents which may be supplied by the petitioner, at the time of hearing, before the Joint Commissioner of Commercial Taxes, Ranchi Division, Ranchi. The decision will be taken by the respondents in accordance with law, rules, regulations and Government polices and on the basis of evidences on record.

4. With these observations, this writ petition is hereby disposed of at this stage.