

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(T) No. 7098 of 2023

M/s. Castrol India Limited, a Company incorporated under the provisions of the Indian Companies Act, 1956, having its Registered Office at Technopolis Knowledge park, Andheri East, P.O. and P.S. Andheri East, District-Mumbai, PIN-400093, Maharashtra, and its local office at Sonari, P.O. & P.S.-Sonari, Town-Jamshedpur, District-Singhbhum East, PIN-831001, Jharkhand, through its Head of Tax and Authorized Signatory, Mr. Ravindra Gawande, aged about 52 years, son of Mr. Jaganath Gawande, residing at Bhoomi Park, Marve Road, Malad West, P.O. & P.S. Malad West, District-Mumbai, PIN-400095, Maharashtra.

... .. Petitioner

Versus

1. The State of Jharkhand, through the Secretary, Commercial Taxes Department, Government of Jharkhand, having its office at Project Bhawan, HEC Dhurwa, P.O.-Dhurwa, P.S. Jagarnathpur, District-Ranchi-834004, Jharkhand.
2. Commercial Taxes Officer, Jamshedpur Circle Jamshedpur, having its office at Sakchi, P.O. and P.S. Sakchi, Town-Jamshedpur, District-Singhbhum East, PIN-831001, Jharkhand.
3. Deputy Commissioner of State Taxes, Jamshedpur Circle Jamshedpur, having its office at Sakchi, P.O. & P.S. Sakchi, Town-Jamshedpur, District-Singhbhum East, PIN 831001, Jharkhand.
4. Joint Commissioner of State Taxes (Administration), Jamshedpur Circle Jamshedpur, having its office at Sakchi, P.O. & P.S. Sakchi, Town-Jamshedpur, District-Singhbhum East, PIN 831001, Jharkhand.

... .. Respondents

With

W.P.(T) No. 7093 of 2023

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... .. Respondents

For the Petitioner : Mr. M.S. Mittal, Sr. Adv
Mr. Salona Mittal, Adv
Mr. Yashdeep Kanhai, Adv
For the Respondents : Mr. A.K.Yadav, Sr. S.C.-I
Mr. Aditya Kumar, A.C. to Sr. S.C.-I

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2. In both these writ petitions the petitioner seeks direction to the respondents to refund excess tax of Rs. 24,00,000/- deposited during appellate proceedings for Assessment Year 2014-15 and Rs.26,00,000/- deposited during appellate proceedings for Assessment Year 2013-14; and for a direction to the respondents to pay statutory interest under Section 55 of the Jharkhand VAT Act from the date of the remand assessment order and also for declaring the inaction of the respondent in refunding the excess tax as violative of Articles 14, 19 (1)(g) and Article 265 of the Constitution of India.

3. Admittedly, assessment orders were passed for both Assessment Years 2013-14 and 2014-15 and a demand notice was issued to the petitioner which was challenged by the petitioner under section 79 of the Jharkhand VAT Act along with an application seeking stay of the amounts assessed under the said assessment orders.

4. On 13.02.2019, in the stay applications filed in the respective appeals, the appellate authority passed orders stating that if the appellant deposits 15% of the demanded amount by 25.02.2019, it would result in a stay of both the Assessment Order and the demand notice.

5. Admittedly, the petitioner complied with the said order within the time prescribed and deposited

Rs.24,000,00/- and Rs.26,00,000/- respectively.

Ultimately, the appellate authority remitted the matter back to the Assessing Officer for fresh assessment in respect of both assessment years.

6. Thereafter, the petitioner requested the Assessing Officer to pass a fresh assessment order and such orders were also passed on 09.01.2021 reducing the tax liability of the petitioner.

The respondents thus demanded tax of Rs.11,067/- and Rs.2,746/- from the petitioner overlooking the fact that the petitioner had made deposit before the appellate authority of Rs. 24,00,000/- and Rs. 26,00,000/- respectively and no credit to the same was given and the balance also was not refunded.

Subsequently, fresh assessment order post remand was also passed on 29.03.2022 reiterating that above amounts are due from the petitioner again without giving credit to the amount already deposited by the petitioner at the time when it had preferred an appeal.

7. In spite of several reminders given by the petitioner the amount deposited by it at the time of filing of the appeal after deducting the tax, subsequently demanded, was not refunded by the respondents.

8. In the counter-affidavit filed by the respondent-authorities no valid reason is assigned why the amount deposited by the appellant at the time of filing the appeal is not being refunded, when admittedly after the remand order was passed by the appellate authority, while disposing of the matter the demand against the petitioner was substantially reduced to a mere Rs. 11,067/- and Rs. 2,746/- respectively by the assessing authority.

9. We fail to understand how the respondents could have retained the amounts deposited by the petitioner at the time of preferring the appeal and seeking stay of demand, after the appeal is decided, and the matter is remitted back, and after the assessing officer passes a fresh assessment order post remand.

10. The respondents cannot retain the amounts deposited by the petitioner pursuant to condition imposed by the appellate authority for stay of the assessment order and contend that there is no necessity to refund the same.

If the actual tax assessed from the petitioner is much less than the amount which the petitioner had deposited at the time of filing the appeal and seeking stay, retention of the balance after the assessing officer, post remand, reduced the demand drastically, would undoubtedly amount to unjust enrichment on the part of

the respondents and would be violative of Article 14 and Article 265 of the Constitution of India.

11. Therefore, the respondents are directed to refund the amounts deposited by the petitioner after adjusting the same towards the tax finally assessed post remand by the assessing authority for the Assessment Year 2013-14 and Assessment Year 2014-15 with interest at the rate of 9% per annum from 09.01.2021 till the date of actual payment. The respondents shall also pay cost of Rs.2,00,000/- to the petitioner for unjustly retaining the said amount for the last four years. The cost as well as the refund shall both be paid to the petitioner within six weeks from the date of receipt of a copy of this order.

12. Both these writ petitions are allowed as above.

(M.S. Ramachandra Rao, C.J.)

(Deepak Roshan, J.)

Fahim/Amardeep