

ORDER SHEET

WPO/2789/2022  
IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

R3 ENTERPRISES AND ANR.  
VS  
DEPUTY COMMISSIONER OF STATE TAX, SHIBPUR CHARGE, HOWRAH  
AND ORS.

BEFORE:  
The Hon'ble JUSTICE MD. NIZAMUDDIN  
Date: 22<sup>nd</sup> November, 2022.

Appearance:  
Mr. Dipayan Kundu, Adv.  
...For the Petitioner

Mr. A. Ray, Ld. GP  
Mr. T.M. Siddiqui, Adv.  
Mr. D. Ghosh, Adv.  
Mr. D. Saha, Adv.  
...For the State

The Court: Heard learned counsel appearing for the parties.

This application has been filed in connection with the main writ petition drawing attention of the court about a Circular dated 3<sup>rd</sup> August, 2022 being No. 179/11/2022-GST issued by the Government of India, Ministry of Finance and relying on such Circular petitioners submit that the impugned adjudication order and order of the Appellate Authority relating to Electric Vehicles, is contrary to the aforesaid Circular and petitioners are entitled to refund of the excess GST collected. Though till date the State Government has not issued any such Circular. Mr. Ghosh, learned Advocate representing the State GST authority submits that they State Government is going to issue the Circular in the similar line very soon and submits that the matter may be remanded back to the Adjudicating Authority concerned to

consider the claim of refund by the petitioners in the light of the aforesaid Circular dated 3<sup>rd</sup> August, 2022.

Considering the submission of the parties and facts as appears from record this writ petition being WPO 2789 of 2022 is disposed of by setting aside the impugned adjudication order and the appeal order and the matter is remanded back to the Adjudicating Authority concerned to pass a fresh order after taking into consideration the benefit given to the Assessee/petitioners in the aforesaid Circular dated 3<sup>rd</sup> August, 2022, within a period of eight weeks from the date of communication of this order.

(MD. NIZAMUDDIN, J.)

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