

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (C) No. 3949/2019

The Oriental Insurance Company Limited ...Petitioner(s)/Appellant(s)

Through: Mr. N. A. Dandru, Adv.

Vs.

Union Territory of JK & Ors. ...Respondent(s)

Through: Mr. Sajad Ashraf, GA.

CORAM:

HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

ORDER
29.04.2024

1. Learned counsel for the petitioner through the medium of this petition seeks a writ in the nature of mandamus commanding the respondent No. 3 to hear and decide the appeal filed by the petitioner under Section 11 of the GST Act against the order of assessment. Learned counsel has also sought a writ in the nature of mandamus commanding the respondent No. 1 to confer powers upon the respondent No. 3 to hear the appeal.
2. Objections stand filed by the respondents whereby in paragraph No. 2 they have stated as under:-

“2. That the aforesaid writ petition has been rendered infructuous on the ground that the post of Dy. Commissioner, State Taxes (Appeals-I) Srinagar which was vacant after filing of the afore-titled petition by the petitioner, has since been filled up by the Government substantively vide Government Order No. 1027-JK (GAD) of 2020 dated 02.11.2020 by posting Dr. Zahoor Ahmad Raina, KAS. Thereafter, Dr. Zahoor Ahmad Raina was transferred vide Government Order No. 651-JK(GAD) of 2021 dated 24.07.2021 and Ms Sammer

Naik, JKAS Dy. Commissioner, State Taxes (Appeals-II) Srinagar was given the additional charge of the post of Dy. Commissioner, State Taxes (Appeals-I) Srinagar. Thereafter, vide Government Order No. 130 (JK) GAD of 2022 dated 06.02.2022 Ms Tabasum Shafat Kamli, JKAS has been posted as Dy. Commissioner, States Taxes (Appeals-I) Srinagar. The reliefs sought by the petitioner in the aforesaid writ petition are for issuance of direction to respondent No. 3 to hear and decide the appeal filed by the petitioner under Section 11 of the J&K GST Act, 1962 against the assessment order dated 31.03.2018 for the a/c year 2013-14. The petitioner has further sought directions to respondent No. 1 to confer power upon respondent No. 3 to hear the appeals. Since the post of Dy. Commissioner, State Taxes (Appeals-I) Srinagar has already been filled up, therefore, the appeal filed by the petitioner shall be considered and decided by the Appellate Authority i.e., Dy. Commissioner, State Taxes (Appeals-I) Srinagar.”

3. In view of the stand taken by the respondents in the objections and the submissions made by learned counsel for the respondents, the writ petition has become infructuous and as such the same is **dismissed**.
4. The respondent No. 3 is directed to consider and decide the appeal filed by the petitioner at an earliest preferably within a period of three months from the date a copy of this order is served upon him. Till the decision to be taken by respondent No. 3, the interim direction passed on 15.01.2020 shall continue.

(M. A. CHOWDHARY)
JUDGE

(TASHI RABSTAN)
JUDGE

SRINAGAR:
29.04.2024
Altaf