HON'BLE SRI JUSTICE G.CHANDRAIAH

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HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No. 29261 of 2015

DATE: 15.09.2015

Betweeen:

M/s. Satya Maharshi Power Corpn Ltd. .. Petitioner

And

Additional Commissioner (CT) Legal
and five others .. Respondents

O R D E R:- (per Hon'ble Sri Justice Challa Kodanda Ram)

The order dated 27.07.2015 passed by the 1st respondent-Additional Commissioner (CT) Legal rejecting the petition filed seeking stay of collection of Tax of Rs.13,92,918/- for the period of from 01.04.2005 to 31.07.2009, is under challenge.

The 3rd respondent – Deputy Commissioner (CT), by proceedings dated 14.07.2014, revised the assessment made by the assessing authority and confirmed the tax due. The petitioner, being aggrieved by the same, while preferring an appeal on 11.09.2014 before the Sales Tax Appellate Tribunal, Visakhapatnam which is pending adjudication, instituted a petition on 01.04.2015 before the 1st respondent seeking stay of collection of Tax of Rs.13,92,918/- for the period from 01.04.2005 to 31.07.2009 and the Additional Commissioner, by the impugned order, rejected the petition.

The principal contention of the learned counsel for the petitioner is that the issue that the fuel used in generation of steam for producing electrical energy is exempted from tax, has not been considered though initially the assessing officer has allowed the petitioner's claim.

A perusal of the order impugned reveals that even though the revisional assessing authority has mentioned about the orders of the advance ruling, has rejected the petition for stay merely stating that *prima facie* he did not find any valid grounds and balance of convenience to grant stay. Since the order suffers from lacunae and considering the fact that the appeal is pending before the Tribunal, we deem it appropriate to dispose of the writ petition with the following direction:

> "There shall be stay of collection of the disputed tax pending disposal of the appeal said to have been preferred by the petitioner on 11.09.2014 before the Sales Tax Appellate Tribunal, Visakhapatnam on condition that the petitioner deposits 50% of the disputed tax, within a period of four weeks from the date of receipt of a copy of this order. However, the amounts which have already been paid by the petitioner either as pre-deposit or in pursuance of the orders passed by the authorities concerned shall be given credit to for the purpose of computing 50% of the disputed tax."

With the above direction, this writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

15.09.2015

CHALLA KODANDA RAM,J

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