IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
W.P. No. 8320 of 2015

Between:

M/s.Amod Spuntex Pvt. Ltd. .. Petitioner

And

State of Andhra Pradesh
and another .. Respondents

Date of Judgment Pronounced: 11.08.2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE G. CHANDRAIAH
&
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

1. Whether Reporters of Local newspapers may be allowed to see the judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the judgment? Yes/No

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

This writ petition is filed seeking a direction to the 2nd respondent – Commercial Tax Officer to refund the amount of Rs.1,22,975/- for the tax periods i.e. from 01.06.2007 to 30.06.2007, 01.07.2007 to 30.09.2007 and from 01.10.2007 to 31.12.2007 vide assessment order bearing No. TIN 28846888589/2007-2008 (CST) dated 28.03.2011 along with penal interest on refund of Rs.20,204/- and Rs.30,156/- paid on 28.05.2014.

The petitioner came to be assessed under the provisions of Andhra Pradesh Value Added Tax Act, 2005 (for brevity "the Act"). Questioning the orders of the assessment, the petitioner preferred three appeals and also made

pre-deposits with the 2nd respondent that are required to be made for availing the remedy of appeal. The appellate authority allowed those appeals by an order dated 20.12.2012. Inasmuch as, the orders of the appellate authority became final, the petitioner is entitled to refund of 12.5% on the tax amounts of Rs.33,427/-, Rs.1,26,427/- and Rs.24,200/-, totaling Rs.1,84,054/- said to have been deposited in the three appeals filed for various periods as aforementioned. In spite of lapse of time, refunds have not yet been made to the petitioner. Hence, the present writ petition seeking refund of the amount together with penal interests.

Heard Sri K.S.Murthy, learned counsel for the petitioner, Sri Shaik Jilani Basha, learned Special Standing Counsel for Commercial Tax and perused the material placed on record.

The learned Standing Counsel has submitted that in two of the cases, refund amounts have been made to the petitioner when the present writ petition was filed, and thereafter, the 2nd respondent issued proceedings dated 07.05.2015 indicating that the Bank authorities issued a Demand Draft for Rs.1,22,975/- bearing No.370650, dated 06.05.2015 in favour of the petitioner and the receipt of which has also been acknowledged by the learned counsel for the petitioner.

Insofar as interest amount is concerned, it is evident from the writ affidavit that interest that is required to be paid on the pre-deposit amounts in pursuance of the appeals having been allowed in favour of the petitioner, has not been paid to the petitioner. The learned Special Standing Counsel has not disputed this aspect of the matter and submitted that the authorities may be directed to determine and calculate the interest payable to the petitioner on the pre-deposits by stipulating time frame.

In view of the above submission, this Court deems it appropriate to dispose of the writ petition with the following direction:

> "The 2nd respondent-Commercial Tax Officer is directed to determine and calculate interest on the pre-deposit amounts by taking into account the facts of the case and refund the same to the petitioner in accordance with the relevant provisions of law. This entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order."

With the above direction, the 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

11.08.2015

CHALLA KODANDA RAM,J

bcj