

HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE CHALLA KODANDA RAM
WRIT PETITION No.9852 OF 2015

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ORDER:- (per Hon'ble Sri Justice Challa Kodanda Ram)

The penalty order dated 21.02.2015 passed by the 3rd respondent-Assistant Commissioner (CT)-III, Hyderabad, in Form VAT 203 under the APVAT Act, 2005 (in short "VAT Act") for the tax period 01.10.2011 to 31.03.2013, is challenged by the petitioner by way of this Writ Petition.

2. This Writ Petition came to be filed challenging the recovery proceedings on the ground that the petitioner came to be declared as sick industry and registered with the Board for Industrial and Financial Reconstruction and an enquiry is pending. This Court taking note of the said submission granted interim stay of taking any coercive steps by its order dated 17.04.2014. On that day notice before admission was also granted. Now, when the matter is taken up for hearing today, learned counsel for the petitioner as well as the learned Standing Counsel for the Commercial Taxes Department (A.P.), Sri Shaik Jeelani Basha, submit that as against the assessment order dated 02.01.2015 for the period October, 2011 to March, 2013 assessing an amount of Rs.1,68,42,479/-, petitioner preferred an appeal to the Appellate Deputy Commissioner (CT), Guntur, and the Appellate Deputy Commissioner has passed an order dated 08.05.2015 modifying the order dated 02.01.2015. Whereunder, the appeal was partly allowed and remanded back to the Assessing Officer-1st respondent to pass consequential orders. In that process a major portion of the demand has been set aside and a consequential order by giving effect to the Appellate Deputy Commissioner's order, result in substantial reduction in the tax demand.

3. In that view of the matter, the order dated 21.02.2015 would not be sustainable and there would be a need to re-workout the penalty, if any, at the time of passing the consequential orders by the assessing officers. In the facts of the present case, the penalty order dated 21.02.2015 is set aside giving liberty to the 1st respondent to pass appropriate orders in accordance with law.

4. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this writ petition, shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

Date:25.06.2014.

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