THE HON'BLE SRI JUSTICE G.CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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W.P.NOS.31279 AND 31296 OF 2015

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COMMON ORDER (Per the Hon'ble Sri Justice Challa Kodanda Ram)

These two writ petitions are filed challenging the orders dated 8.9.2015 passed by the Joint Commissioner (CT)-1 in dismissing the stay applications pending the appeals before the appellate authority.

The petitioner in both the writ petitions is one and the same. W.P.No.31279 of 2015 pertains to the tax period from April 2011 to March, 2012 and W.P.No.31296 of 2015 pertains to the tax period from April, 2012 to March, 2013.

The specific contention of the petitioner is that there is wrong assessment of the facts in the process and whereby huge amount of tax on account of inventory write off has been taken as against the claim of the petitioner. For the inventory write off of Rs.1,42,00,000/-, a figure of about Rs.17,00,00,000/- was assumed and further the input tax credit has been totally denied on the admitted purchase of raw material on the ground that there was no output tax paid on account of the fact that the goods were lost in transit.

The learned counsel further takes us through the assessment orders and points out few arithmetical mistakes in addition to non-consideration of certain of the aspects.

We have heard the learned Advocate General for the Revenue.

Though the impugned order has reiterated the contentions of the assessee – petitioner, we find that the Joint Commissioner has only dealt with the aspect relating to Fire Briquettes /

LPG. Other aspects of the matter were not dealt with.

Inasmuch as we have perused the assessment orders and prima facie satisfied that there is an element of non-consideration of various aspects, which otherwise are likely to reduce the tax burden to a vast extent, we are inclined to stay the orders dated 8.9.2015 and grant stay of the collection of impugned demand, pending disposal of the appeals. However, considering the fact that the first appeals have already been filed and the petitioner had deposited mandatory 12.5 per cent of the tax demand pending the consideration of the appeals, there shall be stay of collection of the balance amount on the condition of petitioner depositing 30 per cent of the disputed tax within four weeks from today.

However, it is made clear that the pre-deposit of 12.5 per cent, shall be reckoned as part of the 30 per cent of the amount that is directed to be deposited for the purpose of these writ petitions.

Petitioner shall co-operate in disposal of the appeals and the appellate authority shall dispose of the appeals within a period of two weeks from the date of receipt of a copy of this order.

The writ petitions are accordingly disposed of at the stage of admission. No costs.

Miscellaneous petitions pending if any, shall stand closed.

G.CHANDRAIAH,J

CHALLA KODANDA RAM,J

DATE:28—09—2015

AVS