

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.40539 of 2016

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

While fairly stating that the subject matter of this writ petition is covered against the dealer and in favour of the Revenue by a Division Bench judgment of this Court in ***Maks Castings P. Ltd. Vs. Government of A.P.***¹, Sri S.Dwarakanath, learned counsel for the petitioner, would submit that, against the aforesaid judgment of the Division Bench, Civil Appeal No.5354 of 2011 and batch were filed, and interim orders of stay have been passed by the Supreme Court.

It is settled law that stay of operation of an order of the High Court, by the Supreme Court, only means that the said order would not be operative from the date on which the order of stay is passed, and does not mean that the order, which has been stayed, has been obliterated. When a Court of appeal stays the operation of the judgment, it stays the further implementation, as between the parties, of the operative portion thereof, and thereby the ratio of the decision cannot be said to be wiped out. (***K.Venkata Reddy v. LAO***²; ***M/s.Sree Chamundi Mopeds Ltd. v. Church of SIT Association***³; and ***Govt. of A.P. v. N.Rami Reddy***⁴).

Pendency of the Civil Appeals before the Supreme Court would not justify a different view being taken from that of the earlier Division Bench judgment in ***Maks Castings P. Ltd.***¹ and, till the order passed therein is set aside by the Supreme Court, the law declared in ***Maks Castings P. Ltd.***¹ would continue to bind a Coordinate Bench.

Following the Division Bench judgment in ***Maks Castings P. Ltd.***¹, and in terms thereof, this Writ Petition is also dismissed. Miscellaneous

¹ (2011) 38 VST 354 (AP)

² 1994 (1) ALT 227

³ AIR 1992 SC 1439

⁴ 2001 (1) ALD 443 (DB)

petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

23rd November 2016

Note: Issue C.C. in two days.

JSU



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Date: 23.11.2016

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