

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

WEDNESDAY, THE TENTH DAY OF FEBRUARY,
TWO THOUSAND AND SIXTEEN

:PRESENT:

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

WP .NO: 20242 of 2015

Between:

M/s. Thyssenkrupp Industrial Solutions (India) Pvt. Ltd.,
Kakinada, Formerly known as M/s. UHDE (I) Pvt Ltd., Kakinada,
Rep. by its Vice President - Finance & Company Secretary,
Mr. Gurpur Radhakrishna Prabhu, S/o. Late. Shri. Vittalraya Prabhu,
aged about 54 yrs, having its registered office at UHDE House,
LBS Mall, Vikhroli (West), Mumbai, Maharastra.

..... PETITIONER

AND

- 1 State of Andhra Pradesh, Rep. by its Principal Secretary, Revenue (CT)
Department, A.P. Secretariat, Saifabad, Hyderabad.
- 2 The Appellate Deputy Commissioner (CT), Visakhapatnam - A.P.
- 3 The Commercial Tax Officer, Kakinada - A.P.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of mandamus declaring the action of the 3rd respondent in not disposing the application dated 19-08-2014 and consequently not refunding the excess amount of Rs.1,27,23,015/- lying to the credit of the Petitioner as illegal, arbitrary, unjust, improper, violative of article 14, 19(1)(g) of the Constitution of India, contrary to the provisions of the APVAT Act, 2005 and consequently direct the 3rd respondent to refund the amount of Rs.1,27,23,015/- along with interest from the date of eligibility till the date of payment of the same.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri M.V.J.K. Kumar, Advocate for the Petitioner and Sri S. Suri Babu, learned Special Standing Counsel for Commercial Taxes, for the Respondents, the Court made the following

ORDER:

After arguments had been put forth elaborately on 28.01.2016, Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, sought time for a counter-affidavit to be filed on behalf of the Government. At his request, the matter was adjourned by one week to

04.02.2016. The learned Standing Counsel again sought one more week's time. As such, the matter was listed today. A memo dated 08.02.2016 is now placed for our perusal which discloses that the Special Chief Secretary to the Government seeks two weeks' time to file a counter-affidavit.

The third respondent has already filed a counter-affidavit. It is only because the learned Standing Counsel had so requested, was the matter adjourned for a counter-affidavit to be filed on behalf of the Government. The matter is adjourned by two weeks to enable the Government to file a counter-affidavit. If no counter-affidavit is filed by then, the Principal Secretary to the Government shall be personally present in Court on 24.02.2016 at 10.30 a.m.

Post on 24.02.2016.

Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, is present in Court and undertakes to inform the first respondent of his obligations under this order.

ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

- 1 The Principal Secretary, Revenue (CT) Department, State of Andhra Pradesh, A.P. Secretariat, Saifabad, Hyderabad. **(By Spl. Messenger)**
- 2 The Appellate Deputy Commissioner (CT), Visakhapatnam - A.P.
- 3 The Commercial Tax Officer, Kakinada - A.P.
- 4 One CC to Sri M.V.J.K. Kumar, Advocate (OPUC)
- 5 Two CCs to Sri S. Suri Babu, Spl. Standing Counsel for Commercial Taxes, High Court of Judicature at Hyderabad. **(By Spl. Messenger)**
- 6 Two spare copies.

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HIGH COURT

**RR,J
&
MSM,J**

DATED: 10-2-2016

**NOTE: If no counter-affidavit is filed
For appearance of R-1, Post on 24-2-2016**

ORDER

W.P.NO. 20242 OF 2015

DIRECTION

HIGH COURT

Nnr

Date of Drafting : 12-02-2016

**RR,J
&
MSM,J**

DATED: 10-2-2016

**NOTE: If no counter-affidavit is filed
For appearance of R-1,
Post on 24-2-2016**

ORDER

W.P.NO. 20242 OF 2015

DIRECTION