NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (T) No. 15 of 2017

1. M/s. Anaal Automobiles, Plot No.1,2 Block 18/A, Dakshin Gangotri, Supela Bhilai, Distt. Durg (C.G.) through its Chief Operating Head Tarun Chawla, S/o Shri H.K. Chawla, aged about 57 years, C/o Anaal Automobiles, Plot No.1, Block 18/A, Dakshin Gangotri, Supela Bhilai, Distt. Durg (C.G.)

2. Tarun Chawla, S/o Shri H.K. Chawla, aged about 57 years, C/o Anaal Automobiles, Plot No.1, Block 18A, Dakshin Gangotri, Supela Bhilai, Distt. Durg (C.G.)

---- Petitioners

Versus

1. State of Chhattisgrh through Secretary, Department of Commercial Taxes, Mahanadi Bhavan, Naya Raipur, Raipur (C.G.)

2. Assistant Commissioner of Commercial Tax, Durg, Commercial Tax Office, Jail Road, Station Road, Titurdiha, Durg (C.G.)

3. Deputy Commissioner (Appellate) of Commercial Tax, Durg, Commercial Tax Office, Jail Road, Station Road, Titurdiha, Durg (C.G.)

---- Respondents

For Petitioners: Ms. Smiti Sharma, Advocate.
For Respondents/State: Mr. Gary Mukhopadhyay, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/05/2017

(1) Learned counsel appearing for the petitioners would submit that against the order of assessment and against the order of First Appellate Court, second appeal is pending before the Chhattisgarh Commercial Tax Tribunal, in the meanwhile, the

State Government has levied the penalty vide order dated 30.06.2016 (Annexure P-2). She would further submit that order passed by a Division Bench of Madhya Pradesh High Court in the matter of **M/s. Ram Kumar and Suresh Kumar Vs. The State of M.P.** in WP No. 8772/2014 decided on 20.06.2014, which was relied by this Court in **M/s. S.K. Sarawgai & Co. Pvt. Ltd. Vs. State of Chhattisgarh** (W.P.T. No.138 of 2016, decided on 10.11.2016) and in **M/s. Lal Medicine Centre and another Vs. State of Chhattisgarh and others** (WPT No.176/2016, decided on 21.12.2016) has held that when appeal against the original assessment order is pending consideration, the proceeding for recovery of penalty should not be initiated before finalisation of the original proceedings.

(2) Learned counsel for the State would not dispute that the petitioners' substantive second appeal is pending consideration before Chhattisgarh Commercial Tax Tribunal.

(3) Since the legal position is settled by the above referred judgments, the present writ petition is disposed off with a direction that no coercive steps shall be taken by the respondents for recovery of penalty imposed upon the petitioners till the second appeal filed by the petitioners is finally decided by the Chhattisgarh Commercial Tax Tribunal. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-