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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (T) No.41 of 2017

M/s Gajshakti Trading Co. Pvt. Ltd., a company incorporated under The Companies Act, 1956 having its registered office Sadar Bazar, Raipur (CG) through its authorized signatory, Nehru Patel, S/o Sukhdev Patel, aged about 35 years, R/o Ward No.14, Badhaipara, Mahasamund (CG)

---Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Department of Commercial Taxes, Mahanadi Bhavan, Naya Raipur, Raipur (CG)
2. Commissioner of Commercial Tax, Vanijyik Kar Bhavan, Civil Lines, Raipur (CG)
3. Assistant Commissioner, Commercial Tax, Headquarter, Raipur, Distt.Raipur (CG)

---Respondents

For Petitioner	:	Mr.Neelabh Dubey, Advocate
For Respondents	:	Mr.P.K.Bhaduri, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

07/04/2017

1. Learned counsel for the petitioner would submit that against the order of assessment and against the order of First Appeal Court, second appeal is pending before the Commercial Tax Tribunal, in the meanwhile, the State Government has levied the penalty vide order dated 24.12.2016 (Annexure P/4). He 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 20.6.2014, which was relied by this

Court in **<u>M/s. S.K.Sarawgai & Co. Pvt. Ltd. Vs. State of Chhattisgarh</u>** (W.P.T.No.138 of 2016, decided on 10.11.2016) and in **<u>M/s. Lal Medicine Centre and another Vs. State of Chhattisgarh and others</u>** (WPT No.176/2016, decided on 21.12.2016) has held that when appeal against the original assessment order is pending consideration, the proceedings 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 petitioner's substantive second appeal is pending consideration before the 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 petitioner till the second appeal filed by the petitioner is finally decided by the Commercial Tax Tribunal. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-