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

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT JUSTICE T. RAJANI

+ T.R.E.V.C.No.51 of 2016

% Date: 21-08-2017

Between:

The State of Telangana rep. by the
State representative before the
Telangana VAT Appellate Tribunal,
D.No.5-4-404 to 408, Nampally,
Telangana, Hyderabad.

... Petitioner

And

M/s. Makson Industries Pvt. Ltd.,
182 & 183, Annaram Village,
Bonthapally Post, Medak-502 313.

... Respondent

! Counsel for the Petitioner : Mr. T. Vinod Kumar,
Special Standing Counsel for CT

^ Counsel for the Respondents : Mr. K. Raji Reddy Sr. S.C.

< GIST:

> HEAD NOTE:

? Cases referred

1. 2016 (11) SCALE 1
2. (2008) 46 APSTJ 1

HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN
And
HON'BLE SMT JUSTICE T. RAJANI

+ T.R.E.V.C.No.51 of 2016

JUDGMENT: (Per VRS,J)

The State of Telangana has come up with the above revision under Section 22(1) of the APGST Act.

2. Heard Mr. T. Vinod Kumar, learned counsel for the petitioner.

3. In view of the law now settled by the Larger Bench of the Supreme Court in Jindal Stainless Ltd. V. State fo Haryana[1], we issued notice on 06.02.2017 on the following substantial question of law to the respondent-assessee, with the hope that the revision could be disposed of at the admission stage:

> "Whether the levy of entry tax on entry of goods into local are, under the A.P. Tax on entry of Goods into Local Area Act, 2001, is sustainable, in view of the orders of the Hon'ble High Court, in the case of M/s. Sree Rayalaseema Alkalies & Allied Chemicals Ltd., Hyderabad and others v. State of A.P. and others?"

4. Mr. Hareesh Kumar, learned counsel has entered appearance for the respondent.

5. In the order under revision, the Tribunal placed reliance upon the decision of the Bench of this Court in M/s. Sree Rayalaseema Alkalies and Allied Chemicals Ltd., Hyderabad v. State of A.P.[2], by which Section 3 of the A.P. Tax on Entry of Goods into Local Areas Act, 2001 was struck down. But the Larger Bench of the Supreme Court has upheld the levy. However three issues were left open to be decided, as they were not part of the discussion in the judgment of the 9 Judges Bench. Those three issues are as follows:

> (1) "Whether the entire State can be treated as 'local area' for the purposes of entry tax?
> (2) Whether entry tax can be levied on the goods which are directly imported from other countries and brought in a particular State?

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[1] 2016 (11) SCALE 1
[2] (2008) 46 APSTJ 1

(3) In some statutes enacted by certain States, there was a provision for giving adjustment of other taxes like VAT, incentives etc., paid by the indigenous manufacturers and it was contended by the assessees that whether the benefits given to certain categories of manufacturers would amount to discrimination under Section 304."

6. There are only two methods by which these three issues can be adjudicated upon. The first is as and when those three issues are raised afresh in writ petitions. After the decision of the Supreme Court, the asseessee has not come up with such a challenge. If on facts it is open to the respondent-assessee to raise those issues before any other authority, today they can do so only if the matter is remitted back to the Tribunal.

7. The order of the Tribunal under Revision is a short order following the judgment of this Court in *Sree Rayalaseema*. Since the said decision has been set aside by the Supreme Court, the question of law has to be answered in favour of the petitioner/State. Accordingly the question of law is answered and the Revision is allowed. However, the matter is remitted back to the Tribunal for consideration, if the respondent seeks to raise any of the three issues left open by the Supreme Court.

2. As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

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V.RAMASUBRAMANIAN, J.

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T. RAJANI, J.

Js.
21st August, 2017.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT JUSTICE T. RAJANI

T.R.E.V.C.No.51 of 2016

(Per VRS,J)

21st August, 2017

Js.