

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
&
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.35305 of 2017

Date : 01-11-2017

Between :

M/s. S & S Industries and Enterprises Limited,
Chennai, represented by its General Manager
Srinivasan Ramasamy

.. Petitioner

And

The Secretary, A.P. Value Added Tax
Appellate Tribunal, Visakhapatnam
and others

.. Respondents

Counsel for petitioner : Sri S. Krishna Murthy

Counsel for respondents : Sri Shaik Jeelani Pasha,

Special Standing Counsel for
Commercial Taxes

The Court made the following :

ORDER: (per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This Writ Petition is filed for issue of mandamus to set-aside endorsement dated 20-7-2017 issued by respondent No.1.

We have heard the learned Counsel for both the parties and perused the record.

The appeal filed by the petitioner against order dated 3-6-2002 of the Appellate Deputy Commissioner (CT), Vijayawada was dismissed on 9-4-2014 by the A.P. Value Added Tax Appellate Tribunal (for short "the Tribunal") as the petitioner/appellant has failed to contest the appeal. The petitioner/appellant filed application dated 6-6-2017 for re-admission of the appeal on 15-6-2017. For the present purpose, it is not necessary to refer to the grounds on which the re-admission was sought. By the impugned endorsement respondent No.1 has not admitted and "returned" the appeal. It is the pleaded case of the petitioner/appellant that as it was not communicated with the order dated 3-6-2002 passed in the appeal passed by the Tribunal, the limitation would commence only from the date of such communication and that as the certified copy of the order passed by the Tribunal was issued on 25-4-2017, the appeal filed on 15-6-2017 is within the time stipulated under Rule 9(3) of the A.P. Value Added Tax Appellate Tribunal Regulations 2005.

In view of the fact that the appeal was not admitted and the same was “returned” by the Secretary of the Tribunal, we are of the opinion that it is not necessary for us to adjudicate the issue raised by the petitioner at this stage. Instead, we deem it appropriate that the application filed by the petitioner for re-admission of the appeal is considered by the Bench of the Tribunal. Therefore, the petitioner is permitted to re-present the case before respondent No.1 within two weeks from the date of receipt of this order. On such re-presentation, respondent No.1 shall place the matter before the Bench of the Tribunal who after hearing the Counsel for the petitioner shall take a decision on the merits for re-admission of the appeal.

The Writ Petition is accordingly allowed to the extent indicated above.

As a sequel to the disposal of the Writ Petition, WPMP No.43855 of 2017 filed for interim relief is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Justice Challa Kodanda Ram

Date : 01-11-2017

AM