HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.42835 of 2017

Date:18.12.2017

Between:

M/s Parle Biscuits Pvt Ltd.,
Medipally Village, Ranga Reddy
District, reptd by its Proprietor-
P.V.Chandrasekhar

..... Petitioner

And:

State of Telangana, reptd by its Principal
Secretary, Revenue Department,
Hyderabad and three others.

.....Respondents

Counsel for the petitioner: Mr. B.Srinivas

Counsel for the respondents: Mr. T.Vinod Kumar

Special Standing Counsel for CT (TS)

The Court made the following:

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

This Writ Petition is filed for a *Mandamus* to set aside order, dated 31.10.2017, of respondent No.2 in CCT's Ref.No.LIII(1)/78/2017, pertaining to the Assessment Year 2009-10 (CST).

We have heard Mr. B.Srinivas, learned counsel for the petitioner, and Mr. T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes (Telangana).

With respect to the assessment of the petitioner pertaining to Central Sales Tax for the year 2009-10, respondent No.3 has issued a revision show cause notice, dated 21.10.2016, wherein it was alleged that in the 'F' forms submitted by the petitioner pertaining to turnover of Rs.45,04,059/-, material alterations were found by using correction fluid and accordingly, revision of assessment was proposed. After considering the explanation of the petitioner, respondent No.3 has issued proceedings, dated 23.02.2017, revising the assessment of the petitioner for the year 2009-10 (CST) under the Central Sales Tax Act, 1956, by withdrawing the incorrect exemption allowed by the Assessing Officer on the turnover of Rs.45,04,059/- and confirmed the proposal to levy tax thereon @ 12.5%. Feeling aggrieved by the said order, the petitioner filed an appeal before the Andhra

Pradesh Value Added Tax Appellate Tribunal, Hyderabad (for short 'the Tribunal'). Pending the said appeal, it made an application before respondent No.2 for stay. By the impugned order, respondent No.2 has rejected stay.

Mr. B.Srinivas, learned counsel for the petitioner, has strenuously contended that original 'F' forms were submitted by the petitioner and that they are not furnished to the petitioner by the Revenue to explain the alleged corrections and to remove the defects, if any, in the said forms. He has further submitted that the petitioner has already paid 25% of the disputed tax and when the appeal is pending before the Tribunal, respondent No.2 ought to have considered granting of stay of recovery of balance tax pending the appeal.

After hearing Mr. T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes (Telangana), we are of the opinion that as there is a genuine dispute regarding the correctness or otherwise of the 'F' forms submitted by the petitioner pending the appeal before the Tribunal, recovery of the entire disputed tax may cause serious prejudice to the interests of the petitioner.

In these circumstances of the case, we feel that interests of justice would be met if recovery of the disputed tax is stayed, subject to the petitioner paying another 25% of the disputed tax within four weeks from today. On such payment, the respondents shall not recover the balance disputed tax pending the appeal before the Tribunal.

The Writ Petition is, accordingly, disposed of.

As a sequel, WPMP.No.53122 of 2017 shall stand dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.S.K.JAISWAL

18th December 2017
DR