THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

W.P.No.41106 of 2017

Date: 11.12.2017

Between:

M/s. The Calcutta Chemicals Company Limited,
(now known as Jyothy Laboratories Limited),
Rep. by its Commercial Executive
Mr.Ramesha Kokkapuni,
RS.No.155/3A, 155/4A, 155/4B,
Opp. Union Bank of Indian, Enikepadu,
Vijayawada – 521 108, Krishna district … Petitioner

And

Additional Commissioner (CT) Legal,
Edupugallu, Near Vijayawada
and three others … Respondents

Counsel for the Petitioner : Mr. S.Dwarakanath

Counsel for the Respondents : Mr. S.Suri Babu,
Special Standing Counsel
for Commercial Taxes(AP)

The Court made the following:

<u>Order</u> : (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Feeling aggrieved by rejection of stay of recovery of tax, pending appeal before the A.P. Value Added Tax Appellate Tribunal, (in short 'the Tribunal'), the assessee filed this writ petition.

2. At the hearing, Mr.S.Dwarakanath, learned counsel for the petitioner, submitted that in the petitioner's own case for the assessment years 2001-02 to 2002-03, T.A.Nos.172 and 683 of 2008 filed by the petitioner, were allowed and that, therefore, the appeal filed by the petitioner for the assessment year 2003-04, deserves to be allowed, following the said order.

3. Mr.S.Suri Babu, learned Special Standing Counsel for Commercial Tax Department, has not disputed the fact that during the pendency of the revision petition filed before respondent No.1, Tax Appeal Nos.172 and 683 of 2008, filed by the petitioner for the assessment years 2001-02 and 2002-03, were allowed and that, the issues raised in the appeal for the assessment year 2003-04, pending before the Tribunal, are identical to those decided by the Tribunal in the aforementioned appeals.

4. In the light of the above undisputed facts, we do not find any justification for respondent No.1, in imposing condition of payment of 50% of disputed tax for granting stay, ignoring the decision of the Tribunal in identical appeals. Therefore, the impugned order passed

by respondent No.1, to the extent it imposes a condition of payment of 50% disputed tax for granting stay, is set aside. The respondents are restrained from collecting the disputed tax for the assessment year 2003-04, pending appeal before the Tribunal.

5. With the above observations, the writ petition is allowed.

6. As a sequel, W.P.M.P.No.51028 of 2017, filed by the petitioner for interim relief, is disposed of.

(C.V.Nagarjuna Reddy, J)

(T.Amarnath Goud, J)

Date: 11th December, 2017

msb