THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

TAX REVISION CASE.No.28 of 2019

ORDER:

This revision arises under Section 22 of the Andhra Pradesh General Sales Tax Act, 1957. The petitioner – assessee suffered a penalty order vide proceedings dated 15.03.2017 of the Commercial Tax Officer, Ramgopalpet Circle, Hyderabad. The penalty levied was to the tune of Rs.37,14,764/-. Aggrieved thereby, it preferred an appeal before the Appellate Joint Commissioner (ST) (FAC), Panjagutta Division, Hyderabad.

2. The said appeal was however dismissed at the admission stage on 14.12.2017. The petitioner thereupon carried the matter to the Telangana Value Added Tax Appellate Tribunal by way of TA.No.67 of 2018. By order dated 28.02.2019, the tribunal dismissed the appeal opining that as the petitioner had failed to pay the admitted penalty within the stipulate time, the law laid down by the High Court of Andhra Pradesh in *M/s. Ankamma Trading Company, Takkellapadu v. The Appellate Deputy Commissioner (CT) Guntur* [2011 53 APSTJ 1] would be applicable and therefore, the petitioner could not seek relief contrary to the law laid down.

3. Sri S. Krishna Murthy, learned counsel for the petitioner, fairly concedes that though the appeal preferred against the judgment of the High Court of Andhra Pradesh in *M/s. Ankamma Trading Company* is still pending consideration before the Supreme Court and

interim suspension of the judgment under appeal was granted by the Supreme Court, such suspension would not have effect of putting in abeyance the principle of law laid down therein. It may be noted that a Division Bench of the combined High Court for the State of Telangana and the State of Andhra Pradesh in VIJAYA MINING & INFRA CORPORATION PRIVATE LIMITED, KADAPA v. THE COMMERCIAL TAX OFFICER-1, KADAPA[1] had an occasion to consider this very issue and rejected the contention that the ratio of the decision in *M/s. Ankamma Trading Company* stood suspended by virtue of the suspension granted by the Supreme Court.

4. We therefore find no error having been committed by the tribunal in applying the law laid down by the High Court of Andhra Pradesh in *M/s. Ankamma Trading Company*.

The revision is therefore devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. There shall be no order as to costs.

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SANJAY KUMAR, J

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T. AMARNATH GOUD, J

June 27, 2019
DSK

[1] (2018) 66 APSTJ 54