THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION Nos.18154, 18166 and 18203 OF 2019

COMMON ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

Hyderabad Cylinders Pvt. Ltd., the petitioner in these three cases, is aggrieved by the assessment orders passed in relation to the tax periods 2013-14, 2014-15 and 2016-17 under the Telangana Tax on Entry of Goods into Local Areas Act, 2001. It is significant to note that the petitioner-company filed appeals against the aforestated orders before the Appellate Deputy Commissioner (CT), Secunderabad Division, Hyderabad, but the said appeals were dismissed on the preliminary ground that the statutory deposit of 12.5% of the disputed amount of tax was not paid within time. The Appellate Deputy Commissioner therefore opined that the delay on the part of the petitioner-company to make such deposit could not be condoned and accordingly dismissed the appeals.

2. The understanding of the Appellate Deputy Commissioner on the issue is incorrect in law in the light of the judgment of the Supreme Court in M/s. S.E. GRAPHITES PRIVATE LIMITED v. STATE OF TELANGANA[1]. Therein, the Supreme Court opined that the decision of the High Court of Andhra Pradesh in ANKAMMA TRADING COMPANY v. APPELLATE DEPUTY COMMISSION (CT), GUNTUR[2] stood impliedly overruled by the decision of the Supreme Court in M/s. INNOVATIVES SYSTEMS v. STATE OF ANDHRA PRADESH[3]. The Supreme Court further observed that the decision in M/s. INNOVATIVES SYSTEMS (3 supra), even if it was brief, laid down the legal position correctly to the effect that once an appeal

[1] Civil Appeal No.7574 of 2014 dated 10.07.2019
[2] (2011) 44 VST 189 (AP)
[3] Civil Appeal No.2230/2015 dated 32.02.2015

was filed within the limitation period but the deposit of 12.5% of the disputed amount of tax, in respect of which the appeal was preferred, is made beyond the limitation prescribed in that regard, the delay in compliance ought to be condoned thereby requiring the appeal to be decided on merits by the appellate authority.

3. In the light of the aforestated settled legal position, it was not proper on the part of the Appellate Deputy Commissioner (CT), Secunderabad Division, Hyderabad, to reject the appeals filed by the petitioner-company on the ground of delayed deposit of 12.5% of the disputed amount of tax. The appellate orders dated 30.03.2019 passed by the Appellate Deputy Commissioner (CT), Secunderabad Division, rejecting the petitioner-company's appeals on this ground are accordingly set aside and the said appeals are restored to the file of the said appellate authority. The Appellate Deputy Commissioner shall proceed to hear the appeals on merits. In terms of the direction of the Supreme Court in M/s. S.E. GRAPHITES PRIVATE LIMITED, the Appellate Deputy Commissioner shall dispose of the appeals not later than thirty (30) days from the date of receipt of a copy of this order.

The writ petitions are accordingly allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. There shall be no order as to costs.

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SANJAY KUMAR, J

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T. AMARNATH GOUD, J

August 22, 2019
DSK