THE HON'BLE SRI JUSTICE T. VINOD KUMAR
AND
THE HON'BLE SMT. JUSTICE P.SREE SUDHA

OSA No.50 of 2011

JUDGMENT: *(per Hon'ble Sri Justice T.Vinod Kumar)*

This OSA is filed by the appellant aggrieved by the order of the Company Court in Company Application No.126 of 2010 in Company Petition No.102 of 2006 dt.13.04.2010.

2. The appellant herein is the respondent in the company application. The company application was filed by the respondent herein as applicant seeking a direction to the appellant herein to comply with the order of this Court dt.13.02.2007 by releasing the balance amount of Rs.1,29,21,931/- along with accrued interest to the applicant.

3. The learned Company Judge, on due consideration of submissions made by the respective parties and in particular of the appellant-respondent, in para 8 of the counter affidavit filed in the company application that against the order of the Income Tax Appellate Tribunal dt.30.04.2008, the Income Tax Department had preferred appeal before the Hon'ble High Court of Andhra Pradesh and as such, is not in a position to release the amount, disposed the above company application, directing the respondent company to pay the

sum of Rs.1,29,24,931/- along with accrued interest to the 1st respondent – applicant, as the Revenue has not obtained any interim orders restraining from releasing the amount in favour of applicant-respondent herein. However, the said amount was not paid to the 1st respondent – applicant, on the ground of pendency of appeal preferred by the revenue in I.T.T.A.No.74 of 2011 before this Court.

4. Ms.K.Mamata Chowdary, learned Senior Standing Counsel appearing on behalf of the Income Tax Department, submits that the said appeal being I.T.T.A.No.74 of 2011 preferred by the Income Tax Department has now been withdrawn on 25.01.2023 being below the monetary limit prescribed under Notification No.3 of 2018 read with Notification No.17 of 2019, for maintaining the appeals before various forums, including the High Court.

5. Learned counsel appearing on behalf of the appellant-company submits that since the appeal filed by the Income Tax Department against the order of the Tribunal has been withdrawn, the appellant would refund the balance outstanding amount payable to the 1st respondent. However, it is stated that the said amount payable to the 1st respondent is deposited by the appellant with the Union Bank of India, in pursuance of the orders of this Court dt.13.02.2007 made in Company Petition No.102 of 2006, in the form of FDRs renewed from

time to time, and the same are presently due for maturity on different dates, viz., on 26.03.2023, 26.06.2023 and 26.06.2023.

6. Sri B.Chandrasen Reddy, learned Senior Counsel appearing on behalf of the 1st respondent, would submit that since the 1st respondent is deceased, his legal representatives, who are brought on record, are agreeable to receive the amount on the due date of maturity of FDRs, as pre-closure would attract charges that would be levied by the bank.

7. Learned counsel appearing for the parties would submit that the appellant as well as the 1st respondent represented by his legal heirs, have now filed a Joint Memo dt.23.02.2023, whereby it has been agreed by the parties that the above said FDRs for the amounts mentioned therein, would be paid by the appellant to the respondents equally on maturity of the FDRs as agreed in the Joint Memo.

8. The above said Joint Memo filed by the appellant and the legal representatives of the 1st respondent is taken on record.

9. In terms of the above Joint Memo, the O.S.A. is disposed of. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

10. Registry is directed to append a copy of Joint Memo dt.23.02.2023 to this order.

T. VINOD KUMAR, J

Date:24.02.2023

P.SREE SUDHA, J

GJ

THE HON'BLE SRI JUSTICE T. VINOD KUMAR
AND
THE HON'BLE SMT. JUSTICE P.SREE SUDHA

OSA No.50 of 2011
(per Hon'ble Sri Justice T.Vinod Kumar)

24.02.2023

GJ