

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO
and
THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 6959 of 2008

Between:

M/s Vasavi Industries Limited, V.R.Agraharam Village,Rajam
Mandal,
Srikakulam District, Rep by its Senior Manager(F&A),
Mr.J.Naga Raju.

..... PETITIONER

AND

- 1 The Commercial Tax Officer, Rajam, Srikakulam District.
- 2 The Deputy Commercial Tax Officer, Kasibugga Circle Srikakulam District.
- 3 The Appellate Deputy Commissioner(CT), Visakhapatnam,
- 4 The Deputy Commercial Tax Officer, Rajam Circle, Srikakulam District.
- 5 The Joint Commissioner(CT) Legal, O/o. The Commissioner of Commercial Taxes,
Govt of A.P., HYDERABAD.
- 6 HDFC Bank,Dwarakanagar Branch, Visakhapatnam, Rep by its's
Branch Manager.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an appropriate writ, order or direction more particulalry one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in dismissing the stay application filed by the petitioner seeking stay of recovery of the disputed penalty of Rs.21,16,377/- for the tax period April 2005 to August 2007 under APVAT Act 2005 through the impugned orders Dt.25.3.2008 on the ground of non prosecution and the consequential action of the 4th respondent in issuing the impugned urgent notice Dt.27.3.2008 insisting for payment of the disputed penalty and initiating coercive action invoking power under Section 29 of APVAT Act as illegal arbitrary and high handed with out authority of law and jurisdiction and set aside the same and restrain the 4th respondent from taking any coercive steps for the recovery of the balance disputed penalty

pending disposal of the appeal before the 3rd respondent and pass such other order or orders

Counsel for the Petitioner:MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court made the following :

ORDER (Per Hon'ble Sri Justice B. Parkash Rao):

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Heard Sri Bhaskar Reddy Vemireddy, learned counsel for the petitioner-company and Sri K. Raji Reddy, learned Government Pleader for Commercial Taxes, appearing for the respondents, and at their request, the writ petition itself is taken up for disposal at the admission stage.

2. The petitioner-company seeks Writ of Mandamus by granting stay of orders of the 3rd respondent-Appellate Deputy Commissioner (CT), Visakhapatnam, dated 25-03-2008, whereby the applications seeking stay were dismissed pending substantive appeal. The main grievance of the petitioner is that having regard to the very questions involved in the main appeal, the appellate Tribunal has not granted stay. Hence, the writ petition.

3. Having heard the learned counsel for the parties and on perusal of the material available on record, and especially in view of the main appeal is still pending on the file of the 3rd respondent, where all such questions have to be gone into the merits of the case, we are refrained to go into any other contentions urged on both sides and it will be suffice in the interest of justice to grant stay pending disposal of the appeal.

4. Therefore, there shall be stay of collection of disputed tax pending disposal of the appeal subject to condition that the petitioner deposits 25% of the disputed tax amount, within a period of six weeks from today. The amount, if any already paid towards the disputed tax,

the same shall be given credit to while computing the above mentioned 25% of the disputed tax. The 3rd respondent shall dispose of the appeal on merits, in accordance with law.

5. With the aforementioned direction, the writ petition is disposed of. No costs.

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JUSTICE

B.PRAKASHRAO

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March 31, 2008

JUSTICE

C.Y.SOMAYAJULU

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Note:-

Issue copy by wire at party's costs.

B/o.

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