

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF JULY  
TWO THOUSAND AND EIGHT

PRESENT

**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**

**and**

**THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO : 16619 of 2008**

Between:

Suryavanshi Spinning Mills Ltd. 6th Floor, Surya Towers, 105,  
Road, Secunderabad - 500 003, Rep by its Executive Director Mr. J.K. Agarwal.

**..... PETITIONER**

AND

- 1 Assistant Commissioner (CT) LTU, Begumpet, Hyderabad.
- 2 Appellate Deputy Commissioner (CT) Punjagutta Division, Hyderabad.
- 3 Additional Commissioner (CT) (Legal), O/o. The Commissioner of Commercial Taxes, Opp : Gandhi Bhavan, Hyderabad.

**.....RESPONDENTS**

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 issue writ, order or direction, more particularly in the nature of Writ of Mandamus, declaring the order of the Additional Commissioner (CT) (Legal), Hyderabad, 3rd respondent herein in CCT's Ref.No. L.III(2)478/2008, dated 10-7-2008, as illegal, void, inoperative and set aside the same; and (ii) interdict the respondents from recovering disputed penalty of Rs. 6,21,349/- till disposal of the appeal by the Appellate Deputy Commissioner, 2nd respondent herein.

**Counsel for the Petitioner:MR.S.CHAKRAPANI**

**Counsel for the Respondents.: SRI A.V. KRISHNA KOUNDINYA, SPL.GP FOR  
COMMERCIAL TAX**

**The Court made the following :**

**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**  
**&**  
**THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO : 16619 of 2008**

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**ORDER:** (Per Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed by the petitioner seeking to declare the order of the 3<sup>rd</sup> respondent herein in CCT's Ref.No. L.III(2)478/2008, dated 10-7-2008, as illegal and arbitrary and to restrain the respondents from recovering the disputed penalty of Rs.6,21,349/- till disposal of the appeal pending before 2<sup>nd</sup> respondent.

The main grievance of the petitioner is that against the order passed by the 1<sup>st</sup> respondent levying penalty, the petitioner filed an appeal as well as a stay petition before the 2<sup>nd</sup> respondent. But the 2<sup>nd</sup> respondent dismissed the stay petition. Having aggrieved by the same, the petitioner preferred a revision before the 3<sup>rd</sup> respondent, but the said revision was also dismissed. Hence, the present writ petition has been filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the petitioner has preferred an appeal before the 2<sup>nd</sup> respondent challenging the order of the 1<sup>st</sup> respondent in levying the penalty and the same is pending and at this juncture, if the relief of stay is not granted and if the entire disputed penalty is recovered, the very

purpose of filing the appeal before the 2<sup>nd</sup> respondent would be defeated.

In the facts and circumstances of the case and in view of the fact that the appeal is pending before the 2<sup>nd</sup> respondent, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to certain conditions.

Accordingly, there shall be stay of recovery of the disputed penalty, pending disposal of the appeal before the 2<sup>nd</sup> respondent, subject to the condition of the petitioner depositing 25% of the disputed penalty, within a period of six weeks from today. However, it is made clear that the penalty amount paid, if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice Ramesh Ranganathan

Date: 31<sup>st</sup> July, 2008

Nn/gurc.

**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**  
**&**  
**THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION No:16619 OF 2008**

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

**31/07/2008**