

**HON'BLE MR JUSTICE GHULAM MOHAMMED
AND
HON'BLE MR JUSTICE G. BHAVANI PRASAD**

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WRIT PETITION No. 16664 of 2009

Between:

M/s Castrol India Limited

..... PETITIONER

AND

The Joint Commissioner (CT) (Legal) Office of the Commissioner of
Commercial Taxes, Nampally St Road and three others

.....RESPONDENTS

ORDER: (Per Hon'ble Sri Justice Ghulam Mohammed)

This Writ Petition has been filed seeking a Writ of Mandamus to declare the impugned order dated 10.7.2009 passed by the first respondent in CCT's Ref.No. LV(1)/382/2009 for the assessment year 2002-03 (APGST), as illegal and arbitrary.

The petitioner is a limited company incorporated under the Companies Act and engaged in the manufacturing and marketing of lubricating oils and is a registered dealer on the rolls of the 3rd respondent. It is stated that the petitioner has got unit at Tondiarpet, Chennai in the State of Tamil Nadu and branches throughout India and one such branch is situated at Hyderabad in the State of Andhra Pradesh. It is stated that initially, the Assistant Commissioner (CT) (LTU), Secunderabad Division-

third respondent passed an order dated 29.3.2006 finalizing assessment for the year 2002-03 under the APGST Act. Aggrieved by the same, the petitioner filed an appeal before the 2nd respondent, who in turn remanded the matter by order-dated 25.9.2006 with some directions. It is stated that in pursuance of the same, the third respondent without properly appreciating the submissions made by the petitioner, passed an order dated 5.5.2008 levying tax on a net turnover of Rs. 111,76,70,388/-. Aggrieved by the same, the petitioner filed an appeal before the second respondent who in turn confirmed the same. Aggrieved by the same, the petitioner filed an appeal before the Sales Tax Appellate Tribunal on 26.6.2009 along with stay petition, seeking stay of collection of the disputed tax pending disposal of the appeal. As the Tribunal has no power to grant stay, the petitioner preferred a stay petition before the Joint Commissioner (CT) (Legal)-first respondent herein. It is stated that the first respondent without appreciating the submissions made by the petitioner, rejected the stay petition by an order dated 10.7.2009. Being aggrieved by the same, the present Writ Petition has been filed.

The learned counsel appearing for the petitioner contended that the

petitioner has already paid the disputed tax of Rs. 1,00,92,926/-. He also contended that when the authority has remitted the matter with reference to the discount from the turnover, no discount from the turnover has been given and that the authority has also not considered the issue relating to stock variation and thus, committed an error of serious infirmity.

On the other hand, the learned Government Pleader vehemently contended that the first respondent has passed a reasoned order giving cogent and convincing reasons while rejecting the stay petition and therefore, there are no reasons to interfere with the said order.

We have heard the leaned counsel appearing for both sides and perused the material made available on record.

Since the petitioner has already paid an amount of Rs. 1,00,92,926/-, we deem it appropriate to direct the petitioner to deposit a sum of Rs. 10,00,000 (Rupees Ten Lakhs Only) within a period of six weeks from today. In the meanwhile, the authority concerned, shall not take any coercive steps till the appeal is disposed of. The appellate Tribunal is directed to dispose of the appeal, as expeditiously as possible.

With the above observation, the Writ Petition is disposed of. There shall be no order as to costs.

GHULAM MOHAMMED,J

G. BHAVANI PRASAD

,J

30.09.2009
KA

..... REGISTRAR

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SECTION OFFICER

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