



HIGH COURT OF ANDHRA PRADESH
TUESDAY ,THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE A V SESA SAI
THE HONOURABLE MS JUSTICE J. UMA DEVI
WRIT PETITION NO: 6745 OF 2021

Between:

1. M/S HARI HARA IRON STORES 24/90, Tadipatri, Near SBI, Jammalamadugu, Kadapa District, Andhra Pradesh, represented by its Proprietor, K. Venkata Lakshmi Kantha Reddy.

...PETITIONER(S)

AND:

1. THE APPELLATE DEPUTY COMMISSIONER (CT) (CT), Tirupathi, D. no. 19/10/100/3A, New Indira Nagar, Beside Govinda Raja Swamy Arts College, Tirupathi Chittoor District, Andhra Pradesh.
2. The Commercial Tax Officer-II, Proddatur, Kadapa Division, Vasanthapeta, Proddatur, Kadapa District, A.P.
3. The State of Andhra Pradesh, rep. by the Principal Secretary to the Government, Revenue (CT) Department, A.P. Secretariat Buildings, Velagapudi, Guntur District, Andhra Pradesh.

...RESPONDENTS

Counsel for the Petitioner(s): G NARENDRA CHETTY

Counsel for the Respondents:

The Court made the following: ORDER



***THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

AND

***THE HON'BLE MS.JUSTICE J.UMA DEVI**

+WRIT PETITION No.6745 OF 2021

%23.03.2021

Between:

M/s Hari Hara Iron Stores, 24/90, Tadipatri, Near SBI, Jammalamadugu, Kadapa District, Andhra Pradeshs, rep. by its Proprietor, K.Venkata Lakshmikantha Reddy.

... Petitioner

And

\$ The Appellate Deputy Commissioner (CT), Tirupathi, D.No.19/10/100/3A, New Indira Nagar, Beside Govinda Rajas Swamy Arts College, Tirupathi, Chittoor District, Andhra Pradesh & two others.

.. Respondents

! COUNSEL FOR THE PETITIONER: Sri G.Narendra Chetty.

^ COUNSEL FOR THE RESPONDENTS: Sri Y.N.Vivekananda,
Government Pleader for
Commercial Taxes.

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>Head Note

? Cases referred

1. *Suo motu W.P.(Civil) No.3 of 2020.*

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

AND

THE HON'BLE MS.JUSTICE J.UMA DEVI

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be
Marked to Law Reporters/Journals. Yes/No

3. Whether Their ladyship/Lordship wish
to see the fair copy of the Judgment? Yes/No

A.V.SESHA SAI, J

J.UMA DEVI, J

THE HON'BLE SRI JUSTICE A.V.SESHA SAI
AND
THE HON'BLE MS.JUSTICE J.UMA DEVI

WRIT PETITION No.6745 of 2021

ORDER: (per Hon'ble Sri Justice A.V.Sesha Sai)

This Writ Petition is filed, under Article 226 of the Constitution of India, challenging the order passed by the Appellate Deputy Commissioner (CT) Tirupathi-first respondent herein dismissing the appeal as time barred.

2. Heard Sri G.Narendra Chetty, learned counsel for the petitioner, and Sri Y.N.Vivekananda, learned Government Pleader for Commercial Taxes, appearing for the respondents, apart from perusing the entire material available on record.

3. Petitioner herein is a registered dealer under the A.P. Value Added Tax Act, 2005 (for brevity, 'the Act') on the rolls of the second respondent and is engaged in the business of Iron & Steel and Paints & Hardware. The Commercial Tax Officer-second respondent herein passed an order *vide* AO200951, dated 07.03.2020, determining the tax payable by the petitioner herein as Rs.3,36,797/-. Petitioner herein received the said order of assessment on 13.08.2020 and preferred a Statutory Appeal, under Section 31 of the Act, before the appellate authority-first respondent herein on 17.10.2020. The Appellate Deputy Commissioner, by way of an order, dated 22.01.2021, dismissed the said appeal on the ground that the same is barred by limitation, while referring to a notification issued by the

Commissioner of Commercial Taxes in CCT Ref.No.A1/1/05/2020, dated 21.05.2020, wherein the Commissioner of Commercial Taxes notified that the period commencing from 22.03.2020 to 30.06.2020 shall be excluded for the purpose of computation of time limit for filing the appeals under Section 31 of the Act.

4. According to the learned counsel for the petitioner, though the petitioner herein brought to the notice of the appellate authority with regard to the orders passed by the Hon'ble Apex Court, the appellate authority, without considering the same, passed the order under challenge. A copy of the order of the Hon'ble Apex Court passed in *Suo motu* Writ Petition (Civil) No.3 of 2020 is placed on record along with the Writ Petition as material paper. It is very much clear from a reading of the said order of the Hon'ble Apex Court that, earlier by way of an order, dated 20.07.2020, the Hon'ble Apex Court extended the period of limitation prescribed under the General law or Special laws whether compoundable or not with effect from 15.03.2020 till further orders and the same came to be extended from time to time. Eventually, the Hon'ble Apex Court disposed of the said Writ Petition by way of an order, dated 08.03.2021. Paragraph No.2 (1) to (3) of the said order reads as under:

"2. We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions:

1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand

excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.

2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.

3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings”.

5. Therefore, it is very much clear from the above that the period commencing from 15.03.2020 to 14.03.2021 is liable to be excluded from the period of limitation for computing the time. In the instant case, as observed supra, petitioner herein received copy of the order passed by the assessing authority on 13.03.2020 and preferred the Statutory Appeal under Section 31 (1) of the Act on 17.10.2020. Therefore, the conclusion arrived at by the appellate authority-first respondent herein, in the impugned order, dated 22.01.2021, that the petitioner herein would be entitled to the benefit of exclusion only for the period between 22.03.2020 and 30.06.2020, cannot be sustained in the eye of law.

6. For the aforesaid reasons, Writ Petition is allowed, setting aside the order, passed by the first respondent, bearing No.ADC Order No.ZH370121OD22063, dated 22.01.2021, and consequently the appeal filed by the petitioner, on 17.10.2020, against the order of the primary authority, on 07.03.2020, stands restored to file for consideration of the same by the appellate authority-first respondent herein, on merits and in accordance with law, after giving opportunity of being heard to the petitioner herein. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

A.V.SESHA SAI,J

J.UMA DEVI,J

23rd March, 2021.

Note:

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