

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

IA 3 in Petition(s) for Special Leave to Appeal (Civil) No(s).11400/2008

(From the judgement and order dated 11/12/2007 in WP No.25920/2007,WPMP No.33794/2007 of the HIGH COURT OF JUDICATURE OF A.P. AT HYDERABAD)

UNION OF INDIA & ANR. Petitioner(s)

VERSUS

GOVT.OF A.P. & ORS. Respondent(s)

(With appln(s) for stay and prayer for interim relief and office report)

Date: 03/02/2014 This appln. was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Ms.Indira Jaising, ASG
Mr.Abhinav Mukerji, Adv.
Ms.Sonam Anand, Adv.
Ms.Sonakshi M., Adv.
For Mrs Anil Katiyar,Adv.

For Respondent(s) Mr.Koka Raghava Rao, Sr.Adv.
Ms. C.K. Sucharita,Adv.
Ms.Laxmi Shastri, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

In this Civil Appeal, the appellants are questioning the correctness or otherwise of the common judgment and order passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in WPMP No.33794 of 2007 in Writ Petition No.25920/2007, dated 11.12.2007. In the Writ Petition filed, the appellants had questioned the constitutional validity of the A.P. Tax on Entry of Goods into Local Areas Act, 2001 ('A.P. Act, 2001' for short).

We have heard learned counsel for the parties on the prayer made for grant of interim relief and also perused the records.

We are not inclined to grant the blanket stay order as prayed for by the appellants. Accordingly, we pass the following order :

The operation of the impugned judgment and order is stayed subject to the appellants depositing 50% of the accrued tax liability/arrears under the A.P. Act, 2001 and furnish bank guarantee for the balance amount within four weeks from today. It goes without saying, that the aforesaid deposit shall be made after adjusting the amount(s) paid or deposited during the pendency of the Writ Petition before the High Court. The appellants are directed to keep the bank guarantee(s) alive during the pendency of this appeal. The amount(s) so deposited/paid and the bank guarantee(s)

furnished is subject to the result of this appeal.

The appellants shall also deposit 50% of the tax liability/arrears, including interest and penalty, and furnish bank guarantee for the balance amount as and when demand notices are issued under the A.P. Act, 2001 for the past period.

In default, the interim order(s) granted by this Court shall automatically stands vacated.

In case the State of Andhra Pradesh loses the matter at the time of final hearing, it shall refund to the appellants the amount deposited with interest at the rate which may be fixed by this Court.

It is also made clear that in case the appellants loses the matter, the Department is at liberty to encash the bank guarantee(s) offered by the appellants and also issue demand notice(s) demanding interest, and penalty on the amount outstanding as arrears of tax.

The appellants shall continue to pay the tax at the prevailing rate(s) for the future period as applicable to each one of the assessees.

In view of the interim order passed by us, we expect that the Department shall not resort to coercive steps to recover the amounts due to the Department.

If for any reason, the appellants in this appeal want to seek statutory remedies provided under the Act against the assessment orders, best judgment assessment orders, provisional assessment orders, appeals or revisions before appropriate forum, they are at liberty to do so and if such appeal or revision is filed, we direct the statutory authorities to consider the same in accordance with law.

We also reserve liberty to the respondent-State of A.P. to verify the veracity of the statement made by the appellants in the affidavits filed insofar as the tax burden being passed on the consumers directly or indirectly.

Liberty is granted to the respondents to file appropriate application before this Court for modification of the interim orders granted, if for any reason, the appellants in these cases have passed on the tax burden on the consumers.

I.A.No.3 is disposed of accordingly.

(G.V.Ramana)
Court Master

(Vinod Kulvi)
Asstt.Registrar