

(2013) 09 AP CK 0002

Andhra Pradesh High Court

Case No: Writ Petition No. 25795 of 2013

Hindustan Steelworks
Construction Ltd.

APPELLANT

Vs

C.C.E.

RESPONDENT

Date of Decision: Sept. 4, 2013

Citation: (2014) 35 STR 55

Judgement

@JUDGMENTTAG-ORDER

G. Rohini, J.

The petitioner which is a Government of India undertaking under Ministry of Steel is carrying on business in execution of works contracts. It is registered as a service provider under the provisions of the Finance Act, 1994. By the Order-in-Original dated 16-3-2011 the 1st respondent demanded Rs. 63,47,940/- towards the short paid service tax apart from Education Cess, interest and penalty specified therein. Aggrieved by the same the petitioner preferred an appeal before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Bangalore Bench, along with an application for waiver of the pre-deposit. The said application was disposed of by order dated 4-6-2013 directing pre-deposit of Rs. 50 lacs within four weeks subject to compliance of which the pre-deposit of the balance demand shall be waived pending the appeal. The said order passed by the CESTAT dated 4-6-2013 is assailed before us in this writ petition. We have heard the learned counsel for both the parties and perused the material available on record.

2. Apparently the impugned order was passed without hearing the petitioner. In the order itself it was recorded that a request was made on behalf of the petitioner for an adjournment on the ground on inconvenience of the counsel for the petitioner. However, having regard to the fact that the appeal was filed long back around two years ago the CESTAT was not inclined to grant any adjournment and thus on the basis of the material available on record the impugned order came to be passed.

3. Be that as it may, admittedly the Service Tax demand itself is Rs. 63,57,940/- whereas the petitioner was directed to deposit Rs. 50 lakhs as a condition for waiver of pre-deposit. In view of the petitioner's plea that it has not collected the disputed Service Tax and that the petitioner is hard pressed for funds, we are of the opinion that it is a fit case for modifying the condition imposed in the impugned order. Accordingly, the impugned order is hereby set aside and the writ petition is disposed of directing the petitioner to deposit 50% of the Service Tax determined in the Order-in-Original dated 16-3-2011 on or before 1-11-2013. It is made clear that in case of default, the impugned order shall stand revived. No costs.