

(2013) 12 AP CK 0007

Andhra Pradesh High Court

Case No: W.P. No. 37657 of 2013

Visakha Industrial Gases (P)
Limited

APPELLANT

Vs

The Commercial Tax Officer and
Others

RESPONDENT

Date of Decision: Dec. 23, 2013

Citation: (2014) 58 APSTJ 41

Judgement

@JUDGMENTTAG-ORDER

G. Rohini, J.

The petitioner is a registered dealer under the provisions of the A.P. Value Added Tax Act, 2005 as well as the Central Sales Tax Act, 1956. The respondent No. 2 by order dated 30.03.2013 assessed the petitioner under the provisions of the A.P. V.A.T. Act, 2005, for the period from 01.08.2010 to 31.12.2012. Against the said order the petitioner preferred an appeal before the respondent No. 3. The said appeal was dismissed by order dated 18.10.2013 and therefore, the petitioner preferred a further appeal before the Sales Tax Appellate Tribunal, Visakhapatnam Bench. Pending the said appeal, the petitioner filed an application for stay of collection of the disputed tax before the respondent No. 4. The said application for stay was dismissed by order dated 26.11.2013 placing reliance upon the orders passed by the Advance Ruling Authority in the cases of M/s. BOC India Ltd., Visakhapatnam, dated 18.07.2005 and M/s. Inox Air Products Pvt. Ltd., Visakhapatnam, dated 29.07.2005. Aggrieved by the same, the present Writ Petition is filed contending inter alia that against the orders of the Advance Ruling Authority dated 18.07.2005 and 29.07.2005, appeals are pending before the Sales Tax Appellate Tribunal and therefore the respondent No. 4 ought not to have dismissed the petitioner's application for stay relying upon the said orders of the Advance Ruling Authority.

2. We have heard Sri Bhaskar Reddy Vemireddy, the learned counsel for the petitioner, and Sri D. Srinivas, the learned Senior Standing Counsel for Commercial

Taxes appearing for the respondents.

3. A perusal of the impugned order shows that the Joint Commissioner -respondent No. 4 had dismissed the petitioner's application for stay of collection of the disputed tax only on the basis of the orders of the Advance Ruling Authority.

4. Having regard to the plea of the petitioner that the said orders are the subject matter of the appeals pending before the Sales Tax Appellate Tribunal, we are of the opinion that the interest of justice would be met if the collection of the disputed tax is stayed subject to reasonable terms.

5. Accordingly, the impugned order is hereby set aside and the Writ Petition is disposed of with a direction to the respondents not to take any coercive steps for recovery of the disputed tax in terms of the Assessment Order dated 30.03.2013, subject to the condition of the petitioner paying 50% of the disputed tax, after giving credit to the amounts that have already been paid, within four (4) weeks from today.

6. The Writ Petition is accordingly disposed of at the stage of admission. No costs. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.