

**(2013) 10 AP CK 0053**

**Andhra Pradesh High Court**

**Case No:** Writ Petition No. 31084 of 2013

Choice Precitech India Pvt. Ltd.  
(Unit-I) Hyderabad

APPELLANT

Vs

Customs, Service Tax and Central  
Excise Appellate Tribunal and  
Others

RESPONDENT

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**Date of Decision:** Oct. 30, 2013

**Citation:** (2013) 6 ALT 653

**Hon'ble Judges:** Kalyan Jyoti Sengupta, C.J; P.V. Sanjay Kumar, J

**Bench:** Division Bench

**Advocate:** Arun Teja D, for the Appellant; Jalakam Sathyaram, Sr. SC for CB Excise, for the Respondent

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### **Judgement**

@JUDGMENTTAG-ORDER

Kalyan Jyoti Sengupta, C.J.

In matters of this nature, no counter affidavit is required because of the facts stated hereunder. The petitioner before us was unsuccessful before the authorities below. He came to Customs, Service Tax and Central Excise Appellate Tribunal and preferred appeal. With the appeal, the petitioner made an application for dispensation of the pre-deposit in order to obtain stay of the impugned order. It appears from the impugned order, the learned Tribunal has adjourned hearing of the stay application on two grounds namely because of the inability of the Tribunal itself to hear out the matter on account of huge pendency and secondly on the prayer of the appellant itself. But the fact remains that the matter was adjourned.

2. Learned counsel for the appellant rightly contended that when the matter was adjourned, there was no reason legally warranting the Tribunal to advise the Department to take appropriate steps in accordance with law.

3. We are of the view that until and unless the case of the appellant is rejected with a reasoned decision, the Tribunal should not have come to such conclusion. We conclude, therefore, that the learned Tribunal had pre-judged its mind and by necessary implication thought that there is no case for granting stay and, therefore, directed the department to proceed. We, therefore, delete the last sentence of the impugned order passed by the learned Tribunal and the same is accordingly expunged. The department is directed not to take any coercive measures. This order is passed in the peculiar facts and circumstances of the case, as admittedly on the date of making application for stay, no action was taken but at the same time, legitimate interest of the Revenue should not be overlooked. Accordingly, the ends of justice would be met by directing the learned Tribunal to prepone hearing of the matter and it should be heard out on any date in the middle of November, 2013.

4. The writ petition is dismissed with the above direction. No order as to costs. As a sequel to the dismissal of the Writ Petition, all the pending interim applications shall also stand dismissed.