

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.6323 OF 2019

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Seeking a direction to the respondents to consider their request for payment of the arrears of taxes under the APGST Act and CST Act in installments, the dealer has come up with the above writ petition.

2. Heard Mr. Vedula Srinivas, learned counsel for the petitioner and Mr. J. Anil Kumar, learned Special Standing Counsel for the respondents.

3. It appears that the petitioner already approached the Commissioner of Commercial Taxes, for payment of the arrears in installments. The Commissioner passed an order on 15.07.2017 granting the facility of payment by installments. But, the petitioner committed default.

4. Thereafter, the petitioner has again sent a representation to the Deputy Commissioner. Therefore, the Deputy Commissioner felt incapacitated, as even the orders passed by his superior were not complied with. In such circumstances, the petitioner is before this Court.

5. Under normal circumstances, a person, who secured the facility of payment by installments and who committed default in complying with the same, may not be entitled to any indulgence. But,

the facts of the case are little peculiar. It is seen from the representation made by the petitioner that the petitioner became a sick company from the year 2011 and their account was declared as Non-Performing Asset by the State Bank of India. It appears that in the year 2017, the bank accepted a One Time Settlement (OTS) and the petitioner came out of the woods. The company is on the path to recovery. Unfortunately, at the time when the petitioner secured an order for payment by installments, they also had the OTS Scheme sanctioned from the bank. Therefore, obviously, the priority went towards clearing the dues of the bank. Hence, the petitioner cannot be said to be a willful defaulter, disentitled to any indulgence.

6. Today, it appears that the liability is around Rs.99.00 lakhs according to the Department. There are 100 people working in the Company. Therefore, while it is necessary to recover the tax arrears, it is also necessary to keep the Industry alive.

7. In such circumstances, the Writ Petition is disposed of granting the facility of payment of the arrears of taxes, in twelve (12) equal monthly installments, with the first of such installment being paid on or before 15th April, 2019 and all subsequent installments being paid on or before 15th of every succeeding English Calendar Month. If the petitioner commits default in payment of any one of the installments, it will be open to the department to proceed further in accordance with law. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

March 28, 2019
Mgr

