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ITEM NOS.36 + 37 COURT NO.2 SECTION III

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

Petition(s) for Special Leave to Appeal (Civil) No(s).34914/2013

(From the judgement and order dated 26/08/2013 in WP No.5542/2005 of The HIGH COURT OF JUDICATURE AT ALLAHABAD, BENCH AT LUCKNOW)

M/S PRAMOD TELECOM PVT. LTD. Petitioner(s)

VERSUS

STATE OF UP THRU. PRINCIPAL SECY.& ORS Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment, exemption from filing O.T. and with prayer for interim relief and office report))

WITH

SLP(C) NO. 35480 of 2013
(With appln(s) for exemption from filing O.T. and with prayer for interim relief and office report))

Review Petition (Civil) NO. 3061 of 2013
in
S.L.P. (Civil) No. 33861 of 2013
(With appln. for c/delay in filing Review Petition)
[FOR PREL. HEARING]

Date: 17/01/2014 These Petitions were called on for hearing today.

CORAM : HON’BLE MR. JUSTICE R.M. LODHA
HON’BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s)

SLP 34914/2013 &
SLP 35480/2013 Mr. Shanti Bhushan, Sr. Adv.
Mr. Pradeep Kant, Sr. Adv.
Mr. Divyanshu Sahay, Adv.
Mr. Rohit Kumar Singh,Adv.
Mr. Kartik Seth, Adv.

RP 3061/2013 Mr. Shanti Bhushan, Sr. Adv.
Ms. Poli Kataki, Adv.
Mr. Kartik Seth, Adv.

For Respondent(s)

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

S.L.P. (Civil) Nos. 34914 of 2013

Mr. Shanti Bhushan, learned senior counsel for the petitioner, submits that the High Court overlooked Section 4-A of the U.P. Trade Tax Act, 1948 (for short, 'Act') inasmuch it provides that if in the opinion of the State Government the purpose for which the facility of exemption from or reduction in the rate of tax was granted under this Section has been fulfilled or that the continuation of such facility is no longer in public interest or is against the public interest, the State Government may withdraw such facility granted to any industry, dealer or class of dealers by way of notification. Learned senior counsel submits that the circular dated 08th July, 2004/11th July, 2005 issued by the Office of Commissioner Trade Tax, Uttar Pradesh is wholly unauthorised inasmuch as the State Government has not exercised the power conferred on it under Section 4-A(6) of the Act by issuance of notification withdrawing the facility that was granted.

Issue notice returnable in eight weeks.

Dasti, in addition to the ordinary process, is permitted.

Subject to the petitioner depositing 50% of the outstanding demand within two months from today and furnishing of bank guarantee for the remaining 50% amount with the concerned authority within the same period, no coercive process shall be taken against the petitioner for recovery of the demand amount.

S.L.P.(Civil) NO. 35480 of 2013

Issue notice returnable in eight weeks.

Dasti, in addition to the ordinary process, is permitted.

Prayer for interim relief is rejected as the demand has already been satisfied. It is clarified that the payment so made/recovered shall be subject to the decision in the special leave petition.

Review Petition (Civil) No. 3061 of 2013
in
S.L.P. (Civil) No. 33861 of 2013

Delay condoned.

Review Petition is allowed and Special Leave Petition (Civil) No. 33861 of 2013 is restored to its original number in terms of the signed order.

S.L.P. (Civil) No. 33861 of 2013

The order dated 01.11.2013 has been recalled by a separate order passed in the Review Petition today and the special leave petition has been restored to its original number.

Issue notice returnable in eight weeks.

Connect with S.L.P. (Civil) No. 34914 of 2013 and S.L.P.(Civil) No. 35480 of 2013.

As regards interim relief, Mr. Shanti Bhushan, learned senior counsel for the petitioner, submits that the entire amount under the assessment order has been deposited by the petitioner. However, since it was deposited late, interest demand in the sum of Rs. 38,380,558.00 has been raised.

Subject to the petitioner furnishing bank guarantee in the above sum within two months from today with the concerned authority, no coercive process shall be taken against the petitioner for recovery of the outstanding demand towards interest.

|(Rajesh Dham) | |(Renu Diwan) |

|Court Master | |Court Master |

(signed order in Review Petition (Civil) No. 3061 of 2013 in S.L.P. (Civil) No. 33861 of 2013 is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

REVIEW PETITION (CIVIL) NO. 3061 OF 2013
IN
SPECIAL LEAVE PETITION (CIVIL) NO. 33861 OF 2013

M/S ANMOL BAKERS (P) LIMITED ...Petitioner(s)

Versus

STATE OF UTTAR PRADESH & ORS. ...Respondent(s)

O R D E R

Delay condoned.

Since in the similar special leave petitions, namely, S.L.P. (Civil) No. 34914 of 2013 and S.L.P.(Civil) No. 35480 of 2013 which arise from the very impugned order, notice has been issued today, the order dated 01.11.2013 is recalled.

Review Petition is, accordingly, allowed and Special Leave Petition (Civil) No. 33861 of 2013 is restored to its original number.

.........................J.
(R.M. LODHA)

NEW DELHI; ....J.
JANUARY 17, 2014 (SHIVA KIRTI SINGH)