

Andhra High Court

Andhra Pradesh Paper Mills Ltd. vs Commr. Of Cus. & C. Ex., Hyderabad on 6 February, 2002

Equivalent citations: 2002 (143) ELT 520 AP

Author: . M Naik

Bench: M B Naik, M N Reddy

ORDER Dr. Motilal B. Naik, J.

1. The petitioner is the A.P. Paper Mills Limited/ Rajahmundry, represented by its Deputy Manager (Excise), who assails the order dated 10-12-2001 made by the 1st respondent in Stay Petition No. 67/2001 (V)-C.E., on various grounds.

2. We have heard Sri V. Srinivas, Counsel for the petitioner and Sri C.V. Ramulu, Standing Counsel for the respondents.

3. It is submitted by the Counsel for the petitioner that as against the determination of the tax liability by the 2nd respondent for the period 1997-2000 to the tune of Rs. 4 crores the matter has been carried in appeal before the 1st respondent. While so, along with the appeal, a stay petition has also been filed seeking recovery of the tax liability pending decision by the Appellate Authority. However, the Appellate Authority, rejected the stay petition even without affording an opportunity to the petitioner. It is in this background W.P. No. 22435 of 2001 has been filed before this Court inter alia assailing the order made by the Appellate Authority rejecting stay without affording an opportunity to the petitioner.

4. At that stage, the learned Division Bench of this Court disposed of the writ petition setting aside the order impugned therein and directed the 1st respondent herein to pass appropriate orders on the basis of the 1st sub-

missions made by the petitioner. Thus the Appellate Authority passed a detailed order on 10-12-2001 in the Stay Petition No. 67/2001 (V)-C.E.

5. The Counsel for the petitioner further submitted that even on remand of the matter, the Appellate Authority has not applied his mind, inasmuch as, in a routine manner again passed the same order directing the petitioner to deposit Rs. 2 crores pending decision in the appeal. The Counsel stated that this condition imposed by the 1st respondent is not in tune with the direction issued by this Court while disposing of W.P. No. 22435 of 2001 and therefore, this is a fit case for interference by this Court.

6. On the basis of the submissions made by both the Counsel and in view of the fact that the Appellate Authority has reiterated the view taken by him in the second round of litigation also giving a detailed reasoning in the order, which is impugned before us, we are not persuaded to agree with the submissions made by the Counsel for the petitioner to interfere with the order impugned.

7. In that view of the matter, we are of the view that no interference is required by this Court and accordingly, we dismiss the writ petition. However, we grant one month time to the petitioner to

deposit the amount of Rs. 2 crores as directed by the 1st respondent in the order impugned and the Appellate Authority shall proceed to dispose of the appeal within a period of one month thereafter by giving necessary opportunity to the petitioner. No costs.