

Shriram Refrigeration Industries Ltd.

Vs

Commercial Tax Officer and others

Writ Petn. (Civil) No. 576 of 1986

(S. Ranganathan, V. Ramaswami II, Dr. A. S. Anand JJ)

30.01.1992

ORDER

1. In this writ petition the assessment order of the Commercial Tax Officer, Hyderabad levying Central Sales Tax in respect of certain transactions of the petitioners is challenged. We are informed that the petitioners have already filed an appeal to the first appellate authority against the assessment which is pending. We are also told that there are certain other assessments on similar issues in which appeals are pending before the first appellate authority and, in one of the cases, even before the Appellate Tribunal. In this situation, we do not consider it appropriate to entertain this petition under Article 32 of the Constitution.

2. Counsel for the petitioners, however, points out that, in respect of the same transactions, the petitioners have paid local sales tax in various other States under their respective sales tax enactments. Both the petitioners and those State authorities proceeded on the footing that these are local sales and not inter State sales. The result, according to the petitioners, is that, while they have paid a high rate of local sales tax, they are being called upon to pay Central Sales Tax on the very same transactions and that this is causing great hardship to the petitioners. There is some justification in this grievance. We, therefore, direct the respondents that they should not take any steps to recover the amount of Central Sales Tax payable by the petitioners on the transactions in respect of which they have already paid sales tax in other States as intraState sales. This stay will continue till the Sales Tax Appellate Tribunal disposes of the appeal of the petitioners which is now pending before it. We direct the Tribunal to do this expeditiously within a period of three months from today. We also direct the concerned first appellate authority to await the decision of the Appellate Tribunal and, after the above decision of the Appellate Tribunal, dispose of the appeals pending before it in the light thereof within a period of one month thereafter. In respect of these matters also, there will be a stay of recovery of Central Sales Tax until the disposal of the above appeal by the Tribunal to the extent it pertains to the transactions on which local sales tax has been paid in other States.

3. Counsel for the petitioners submits that, in the event it is ultimately held that these transactions are liable to Central Sales Tax, he may have to take appropriate steps to move the appropriate authorities or the High Court for refund of the local sales tax paid in various States. The petitioner will be at liberty to take such steps as it may be advised to obtain such refunds in such an eventuality and, in the event of his not succeeding before the concerned authorities, will be at liberty to approach this Court in due course if necessary.4. Subject to the above observations, the writ petition is dismissed. There will be no order as to costs.

Petition dismissed.

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