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(2017) 03 AHC CK 0098

In the Allahabad High Court

Case No : Sale/Trade Tax Revision No. 97 of 2017

M/s. Grasim Industries Ltd. APPELLANT

Vs

Commissioner, Commercial Tax RESPONDENT

Date of Decision : 20-03-2017

Acts Referred:

Uttar Pradesh Value Added Tax Act, 2008 — Section 55(6)

Citation : (2017) 95 UPTC 426

Hon'ble Judges : Ashwani Kumar Mishra, J.

Bench : Single Bench

Advocate : Rishi Raj Kapoor, Advocate, for the Applicant; C.S.C, for the Opposite Party

Final Decision : Disposed Off

Judgement

Ashwani Kumar Mishra, J.—Revisionist herein was assessed to tax for the assessment year 2009-2010, and its claim for grant of input tax credit was reversed. An appeal filed against such order was also rejected. The revisionist thereafter has preferred a second appeal before the Tribunal, which is pending. It appears that penalty proceedings have been initiated against the revisionist in respect of reversal of input tax. This order has also been subjected to challenge in appeal, which is pending. However, the Tribunal has directed the revisionist to deposit half of the amount, and in a second appeal, arising out of such order, the Tribunal has reduced the requirement of such deposit to 30%. The revisionist is thus aggrieved and has preferred the present revision.

2. Learned counsel for the revisionist submits that once the issue of legality of reversal of input tax credit itself is sub-judice, there was no justification for the authorities to proceed with penalty proceeding, on the assumption that the benefit was wrongly claimed, and impose huge penalty, as has been done. Submission is that in the facts and circumstances, the revisionist ought not to have been directed to deposit any amount so long as issue is not settled.

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3. Learned Standing Counsel submits that the Tribunal has granted sufficient benefit, and there is no justification for interference in the matter.

4. I have heard learned counsel for the parties, and have perused the materials brought on record.

5. It is not in issue that question as to whether the reversal of input tax credit is justified or not is still engaging the attention of the Tribunal. It is on this ground that penalty proceedings have been initiated. In the opinion of the Court, once the basic issue is yet to be adjudicated, and the appeal arising out of penalty proceedings are also pending, interest of revenue would be amply protected by requiring the revisionist to furnish security other than cash and bank guarantee, subject to adjudication of lis in pending appeal. The question of law posed for consideration is answered, accordingly.

6. The revision is, accordingly, disposed of.

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