(2016) 05 AHC CK 0350

In the Allahabad High Court

Case No : Sales/Trade Tax Revision No. 146 of 2016

M/S Moser Baer Entertainment Limited — APPELLANT

Vs

Commissioner, Commercial Tax — RESPONDENT

Date of Decision : 04-05-2016

Acts Referred:

Citation : (2016) 93 UPTC 294

Hon'ble Judges : Pankaj Mithal, J.

Bench : Single Bench

Advocate : Krishna Agarawal, Advocate, for the Applicant; C.S.C, for the Opposite Party

Final Decision : Dismissed

Judgement

Pankaj Mithal, J.—Heard learned counsel for the parties.

2. This revision under Section 58 of the U.P. Value Added Tax Act, 2008 (hereinafter referred to as the Act) is directed against the order of the Tribunal dated 12th April, 2016 by which the Tribunal has granted protection to the revisionist as against the order of assessment passed against it by providing that the appeal of the petitioner be heard and decided within 30 days during which period the petitioner would deposit 15% of the disputed amount of tax and furnish security for the remaining 85% of the amount.

3. The assessment order was passed against the revisionist on 16.03.2016.The first appeal of the petitioner against the said order is pending wherein by an interim order 50% of the disputed amount has been directed to remain in abeyance provided petitioner furnishes security in respect of the other 50% of the disputed amount. This interim order has further been extended by the Tribunal and the recovery of 85% of the disputed amount has been stayed subject to furnishing security to that effect. Thus leaving only 15% of the disputed amount to be deposited.

4. The present revision has been filed in order to secure absolute stay of the

entire disputed amount on the ground that the Tribunal has not considered the financial position of the revisionist and the prima facie merits of the case.

5. I have perused the impugned order passed by the Tribunal.

6. The Tribunal on consideration of all the arguments of the revisionist and has recorded that in view of the documents on record including the balance sheet of the revisionist, stay of 85% of the disputed amount subject to furnishing of security would suffice the purpose during the pendency of first appeal to be decided within 30 days.

7. This apart a revision under Section 58 of the Act is permissible on a question of law. The matter of grant of stay or complete stay is largely dependent upon facts and hardly involves any question of law as in the present case.

8. Accordingly, I find no substance in this revision and the same is dismissed.

9. The First Appellate Authority is expected to abide by order of the Tribunal and would ensure that the appeal is decided within the time frame fixed, the order whereof would be provided to the revisionist immediately without any delay.