(2017) 01 AHC CK 0229

In the Allahabad High Court

Case No : Writ Tax No. 10 of 2017

M/S Rathi Super Steel Limited — APPELLANT

Vs

State of Uttar Pradesh — RESPONDENT

Date of Decision : 12-01-2017

Acts Referred:

Citation : (2017) 95 UPTC 201

Hon'ble Judges : Ashwani Kumar Mishra, J.

Bench : Single Bench

Advocate : Shubham Agrawal, Advocate, for the Petitioner; C.S.C, for the Respondents

Final Decision : Disposed Off

Judgement

Ashwani Kumar Mishra, J.—Following orders were passed in the matter on 9.1.2017:-

"Petitioner is aggrieved by an order passed by Tribunal requiring petitioner to deposit 5% of the disputed tax amount for the purposes of grant of interim protection in second appeal.

Learned counsel for the petitioner, with reference to assessment order, points out that the authorities have essentially relied upon similar orders passed in respect of previous years, in respect of which interim protection has been granted by this Court.

Perusal of records goes to show that in respect of previous years, interim protection was granted by this Court in May, 2015, and it is not clear as to why the second appeal has not been decided on merits so far.

Learned Standing Counsel may obtain instruction, as to why the appeals filed in respect of previous years, where similar question is involved, has not been decided so far.

Put up as fresh on 12th January, 2017."

2. It is not disputed, on the basis of instructions, that the appeal has not remained pending on account of any dilatory tactics on part of the assessee. Learned counsel for the petitioner submits that petitioner has already deposited admitted tax of Rs.2.44 crores, and the dispute survives in respect of stock transfer alone, in respect of which petitioner has deposited Form ''F''. It is stated that in similar circumstances, in respect of proceedings relating to previous years, this Court has already granted interim protection in Writ Tax No.445 of 2015 (M/S Rathi Super Steel Limited v. State of U.P. and others), vide order dated 22.5.2015.

3. Considering the facts, as have been brought on record, it would be appropriate to dispose of this petition with the direction upon the Tribunal to dispose of petitioner''s pending appeal No.1358 of 2016, on merits, without requiring it to deposit any further amount of tax, provided petitioner furnishes security other cash and bank guarantee to the satisfaction of the assessing authority. The appellate authority shall make all endeavours to dispose of the matter, on merits, at the earliest possible.

4. The writ petition is, accordingly, disposed of.

