(2017) 03 AHC CK 0114

In the Allahabad High Court

Case No : Sale/Trade Tax Revision No. 102 of 2017

M/s. S.D.S. Infra Con. Pvt. Ltd. APPELLANT

Vs

The Commissioner, Commercial Taxes RESPONDENT

Date of Decision : 23-03-2017

Acts Referred:
Uttar Pradesh Value Added Tax Act, 2008 — Section 57(9)

Citation : (2017) 95 UPTC 423

Hon'ble Judges : Ashwani Kumar Mishra, J.

Bench : Single Bench

Advocate : Shubham Agrawal, Advocate, for the Applicant; C.S.C, for the Opposite Party

Final Decision : Disposed Off

Judgement

Ashwani Kumar Mishra, J.—The revisionist assessee contends that it has already deposited nearly Rs.71,33,774/- towards tax and benefit of ITC has also admissible and thereafter at best demand of Rs.43,36,323/- could be levied against it, but the tribunal in the matter arising out of interim protection has required the assessee to deposit 15% of the total disputed amount of tax of Rs.1,55,66,969/-. Submission is that once the tribunal has noticed the facts of the case and a finding is returned that assessee has a strong prima facie case and it was apparent that substantial amount of tax has already been deposited, there was no justification for the tribunal to require the assessee to deposit 15 of the disputed tax amount.

2. Learned Standing Counsel does not dispute the factual averments, noticed above. It is submitted that appeal itself may be directed to be heard in accordance with law.

3. Considering the facts and circumstances, as have been brought on record, this Court in the peculiar facts and circumstances of the present case where assessee has deposited nearly 70% of the disputed tax amount, and the tribunal has

noticed existence of a strong prima facie case in favour of assessee, ends of justice would be met in directing disposal of appeal, on merits, by requiring the assessee to furnish security other than cash or bank guarantee for the balance amount. The question posed is answered accordingly.

4. Revision stands disposed of.