
(2011) 12 AP CK 0121

In the Andhra Pradesh High Court

Case No : Writ Petition No. 31058 of 2011

M/s Ultra Tech. Cements Ltd.

APPELLANT

Vs

The Asst. Commissioner (CT), LTU, Ananthapur Division,
Anantapur, The Deputy Commissioner (CT), Anantapur
Division, Ananthapur and Mr. Shaik Zaheer, Asst.
Commissioner (CT), LTU, Ananthapur, Ananthapur District

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Citation : (2012) 2 ALD 22 : (2012) 2 ALT 469

Hon'ble Judges : Sanjay Kumar, J; Madan B. Lokur, J

Bench : Division Bench

Advocate : Bhaskar Reddy Vemireddy, for the Appellant;

Final Decision : Dismissed

Judgement

Hon'ble the Chief Justice Shri Madan B. Lokur

1. The challenge in this writ petition is to an order dated 29-10-2011 passed by the Assistant Commissioner (CT) (LTU), (FAC), Ananthapur under the provisions of the Andhra Pradesh Value Added Tax, 2005.

2. On going through the order passed by the Assistant Commissioner, we find that it is an appealable order. Under the circumstances, we are not inclined to entertain this writ petition challenging the order and leave it open to the petitioner to challenge the order by way of an appeal.

3. We may note that in State of Himachal Pradesh v. Gujarat Ambuja Cement Ltd., 1 (2005) 142 STC 1, the Supreme Court held as follows:

There are two well recognized exceptions to the doctrine of exhaustion of statutory remedies. First is when the proceedings are taken before the forum under a provision of law which is ultra vires, it is open to a party aggrieved thereby to move the High Court for quashing the proceedings on the ground that

they are incompetent without a party being obliged to wait until those proceedings run their full course. Secondly, the doctrine has no application when the impugned order has been made in violation of the principles of natural justice. We may add that where the proceedings itself are an abuse of process of law the High Court in an appropriate case can entertain a writ petition.

4. None of these conditions are met in the present case. Under the circumstances, following the decision of the Supreme Court, we are not inclined to entertain this writ petition leaving it open to the

petitioner to take recourse to the alternative remedy available under the statute.

5. The writ petition is dismissed. The miscellaneous application is also dismissed.

6. At this stage, learned counsel for the petitioner seeks two weeks time to file an appeal.

7. We grant two weeks time to the petitioner to file an appeal before the departmental authorities. We make it clear that in case the appeal is filed within two weeks, the appellate authority will consider the appeal on its own merits without going into the question of limitation.