

Rejection of application for absolute stay of demand held correct - deposit of 40% of demand justified: HC

Summary – The High Court of Karnataka in a recent case of Bright Packaging (P.) Ltd., (the Assessee) held that rejection of application for absolute stay of demand was correct and deposit of 40% of demand was justified

Facts

- Assessee filed the return of income declaring NIL income which was later enhanced by the Assessing Officer after reopened the assessment and determining the taxable income at Rs. 4.50 crores. Notice of demand under section 156 was also issued.
- The assessee filed appeal before the Commissioner (Appeals) and an application for stay of the disputed demand.
- The Assessing Officer in reply to the stay application advised the assessee to pay 20 per cent of the disputed demand.
- The assessee requested to pay 20 per cent of demand in instalments. The Assessing Officer taking approval under section 220(6) passed an order rejecting the application seeking absolute stay and the request for instalments and asked assessee to pay full demand amount.
- The assessee filed writ petition for quashing the order passed by the Assessing Officer under section 220(6).
- The Single Judge of the High Court passed the order holding that the assessee shall deposit 40 per cent of the total enforceable demand and shall furnish sufficient security for 35 per cent of the enforceable total demand.
- On writ appeal against the portion of the order by which the Single Judge had directed the assessee to furnish security for 35 per cent of the enforceable total demand.

Held

- The HC stated that in the order passed under section 220(6) the Assessing Officer was of the view that it is a fit case for recovery of the entire demand raised, since the assessee had failed to prove genuineness of the credits in the books of account and assessee was not able to prove the identity, creditworthiness of the companies, who contributed to the share capital as well as the genuineness of the transaction. It is due to this fact that the Single Judge modified the order of the Assessing Officer passed under section 220(6) demanding the entire enforceable demand to that of deposit of 40 per cent of the total enforceable demand and furnishing of security to an extent of 35 per cent of the enforceable total demand, which is an equitable order passed by the Single Judge.
- Assessee has not made out any good ground to interfere with the equitable order passed by the Single Judge and the appeal deserved to be dismissed.