

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
MONDAY , THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIFTEEN

:PRESENT:
THE HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
THE HON'BLE DR JUSTICE CHALLA KODANDARAM

WP .NO:13887 of 2015

Between:

M/s. Sri Veera Venkata Satyanarayana Modern Rice Mill Bhimavaram,
Represented by its Managing Partner, Kurmala Narayana Rao, S/o. Ganga
Raju, aged about 68 years, West Godavari District -A.P.

..... Petitioner(s)

AND

1. The State of Andhra Pradesh, Represented by its Principal Secretary, Revenue (CT)., Department, Andhra Pradesh Secretariat, Saifabad, HYDERABAD.
2. The Deputy Commissioner (CT), Eluru Division, Eluru, WEST GODAVARI DISTRICT -A.P.
3. The Commercial Tax Officer, Bhimavaram, WEST GODAVARI DISTRICT -A.P.

.....Respondent(s)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of mandamus declaring the action of the 2nd Respondent, the Deputy Commissioner (CT), Eluru Division in passing the order in DC. 71 in R.F. No. 362/2013-14 in Ref No. A4-36/2014 dated 04-03-2015 for the assessment year 2006-07 levying tax under Section 4(4) of the AP VAT Act, 2005 on purchases of paddy from farmers within the State of Andhra Pradesh used for obtaining rice and husk exempt from payment of tax as illegal, arbitrary, unjust, without authority of law, jurisdiction and violative of Article 14, Section 19(1)(g) and Article 265 of the Constitution of India and contrary to the definition of 'business' defined in Section 2(6), 'dealer' defined in Section 2(10) and 'sale' defined in Section 2(28) of the AP VAT Act, 2005 and the law laid down by this Hon'ble Court and various other High Courts and the Hon'ble Apex Court reported in 24 APSTJ p.1, 29 APSTJ p.1, 54 APSTJ p.1, 90 STC 537, 2007 4SCC p.30 and Civil Appeal No.603/2004 and Civil Appeal No.3129/1995 and contrary to the law laid down by this Hon'ble Court in W.P. Nos. 17972/2008 & batch

WPMP NO. 18198 OF 2015:

Petition under Section 151 of C.P.C. Praying that in the

circumstances stated in the affidavit filed in W.P. the High Court may be pleased to grant stay- of all further proceedings pursuant to the impugned order in DC. 71 in R.F. No. 364/2013-14 in Ref. No. A4-36/2014 dated 04-03-2015 for the assessment year 2006-07 pending disposal of the WP No. 13887 of 2015 on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed herein and order of the High Court dated 01-05-2015 made herein and upon hearing the arguments of SRI M V J K KUMAR Advocate for the Petitioner and G.P for Commercial Taxes for the Respondents and the Court made the following.

ORDER

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It is submitted by the learned counsel for the petitioner that the subject matter of the writ petition is squarely covered by the judgment reported in 81 VST Page 1.

The commodity involved is rise husk.

The learned Government Pleader for Commercial Tax submitted that so far as the commodity, rise husk, is concerned there has been peculiarity in the facts and situation. The review petition has been filed and the same is pending, which fact has not been disputed by the learned for the petitioner.

However, considering the fact that the writ petition itself came to be allowed earlier on the similar issues, the interim order granted, earlier, is extended until further orders.

List the matter after disposal of the review petition.

Liberty is given to the parties to make a mention for listing the matter, after disposal of the review petition.

ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

- 1 One CC to Sri M.V.J.K. KUMAR, Advocate (OPUC)
- 2 Two CC's to G.P for Commercial Taxes, High Court at Hyderabad (OUT)
- 3 Two Spare Copies.

Tvr

HIGH COURT

GCJ & CKRJ

DATED: 15-06-2015

ORDER

WP NO. 13887 OF 2015

INTERIM STAY EXTENDED

TVR

Dated: 17-06-2015

HIGH COURT

GCJ & CKRJ

DATED: 15-06-2015

ORDER

WP NO. 13887 OF 2015

INTERIM STAY EXTENDED