THE HON'BLE SRI JUSTICE R.SUBHASH REDDY
and
THE HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.172 of 2003

<u>ORDER</u> (per RSR,J):

This Writ Petition is filed seeking writ of *mandamus* to declare the action of the respondents in demanding tax from the Branch Offices, Divisional Offices and Regional Offices of petitioner – Insurance Company under the provisions of the A.P Tax on Professions, Trades, Callings and Employments Act, 1987 (for short 'the Act'), as illegal and arbitrary.

The petitioner is an insurance company having Head Office at Mumbai and Branch Offices all over India. It has got seven branches in the erstwhile State of Andhra Pradesh, presently, State of Telangana and State of Andhra Pradesh. The levy of tax is questioned mainly on two grounds i.e., the petitioner is not liable to pay such tax in respect of every branch, as every branch cannot be construed as a 'person' and that in the absence of any Entry bringing the petitioner under the provisions of the Act, the petitioner is not liable to pay tax.

When the matter is taken up for hearing, it is fairly submitted that the subject matter of this writ petition is squarely covered by the judgment of the Hon'ble Supreme Court in the case of ***Karnataka Bank Ltd., v.***

***State of Andhra Pradesh and others*[1].**

However, Sri Vedula Srinivas, learned counsel appearing for the petitioner submits that as the petitioner Company is registered under the provisions of the Companies Act, 1913 (for short 'the 1913 Act'), it is not covered by Entry 19 of the First Schedule to the Act.

As per Entry 19 of the First Schedule, all Companies registered under the Act, 1956 (for short 'the 1956 Act') and engaged in a profession, trade or calling are chargeable at the rate of Rs.2,500/- per annum.

It is not in dispute that by virtue of the provisions of the 1956 Act, the 1913 Act is repealed. Therefore, the Companies registered under the 1913 Act are brought under the purview of the 1956 Act. As it is not in dispute that the petitioner Company is engaged in Profession, Trade and Calling, and further, in view of the repealing of the 1913 Act, the petitioner can be treated as a Company registered under the 1956 Act. In that view of the matter, the argument of the learned counsel for the petitioner that the petitioner Company is not covered by the 1956 Act, cannot be accepted.

So far as residuary Entry under 21 of the First Schedule is concerned, the persons, other than those mentioned in any of the preceding entries, who are engaged in any profession, trade or callings or employments, are chargeable at the rate of Rs.750/- per annum.

As we are of the view that the petitioner Company falls under Entry 19, we cannot accept that it is to be charged at the rate of Rs.750/- per annum, as per Entry 21.

For the aforesaid reasons, the Writ Petition is devoid of merits and the same is accordingly dismissed. The interim order dated 31.01.2003 shall stand vacated. There shall be no order as to costs.

Consequently, pending miscellaneous applications, if any, shall also stand dismissed.

R.SUBHASH REDDY, J

Date: 27.02.2015

Dr.B.SIVA SANKARA RAO, J

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(Order of the Bench delivered by the Hon'ble Sri Justice R. Subash Reddy)

Date: 27.02.2015

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[1] (2008) 2 SCC 254