HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.8346 of 2015

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ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

In view of the pendency of appeal before the Sales Tax Appellate Tribunal, Hyderabad, the writ petition is being disposed of, at the admission stage, after hearing Sri B. Srinivas, learned counsel appearing for the petitioner as well as the learned Government Pleader for Commercial Taxes appearing for the respondents.

2. This writ petition is filed by the petitioner questioning the order in CCT's Ref.LV(1)/77/2014, dated 5.5.2014, passed by the 1st respondent-Joint Commissioner (CT) (Legal), Hyderabad, dismissing the petition filed seeking stay of collection of disputed penalty, pending disposal of the appeal before the Sales Tax Appellate Tribunal, Hyderabad.

3. The petitioner is a Proprietary concern engaged in the business of Electrical goods and equipments viz., cables, conductors, SFU (Switch Fuse Unit) panels etc., and is a VAT registered dealer on the rolls of the 3rd respondent-Commercial Tax Officer, R.P. Road, Ameerpet, Hyderabad. The 4th respondent-Assistant Commissioner (CT-II), Hyderabad, has passed the assessment order dated 29.5.2012 proposing to levy tax at 14.5% for the period 2011-12 under the provisions of A.P. VAT Act, 2005 (for brevity "the Act"). As against the said order, the appeal filed before the 2nd respondent-Appellate Deputy Commissioner (CT), Secunderabad Division, was dismissed by order dated 21.2.2014.

Aggrieved by the said order dated 21.2.2014, the petitioner carried the matter by way of appeal before the Sales Tax Appellate Tribunal, Hyderabad, in T.A.No.187 of 2014.

4 . While, it is the case of the petitioner that Entry 121 of Schedule-IV cover the goods manufactured by it, the contention of the Department is that the goods manufactured by the petitioner fall under the residuary Schedule-V of the Act and liable to tax at 14.5%.

5. In view of the pendency of appeal before the Sales Tax Appellate Tribunal, we are not inclined to go into the merits of the case and record a finding. As it is not in dispute that the petitioner has already deposited 50% of the disputed penalty as a condition precedent for filing an appeal before the Sales Tax Appellate Tribunal, we deem it appropriate to dispose of the writ petition directing the respondents not to take any coercive steps for recovery of balance disputed penalty payable by the petitioner till disposal of the appeal. The Sales Tax Appellate Tribunal, Hyderabad, shall dispose of the appeal filed by the petitioner as expeditiously as possible.

6. Subject to the above directions, this writ petition is disposed of. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

27.03.2015.

Msr

HON’BLE SRI JUSTICE R.SUBHASH REDDY

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