HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE Mrs. JUSTICE ANIS

WRIT PETITION No.1010 of 2015

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

This writ petition is filed seeking *Mandamus* to set aside the impugned order CCT's Ref.No.LIII(2)/122/2014, dated 30.12.2014 passed by the 2nd respondent-Joint Commissioner (CT) - II, Hyderabad, whereunder the request made by the petitioner for grant of interim stay was partly rejected and consequently a notice dated 17.1.2015 is issued by the 1st respondent-Assistant Commissioner (CT), LTU Saroornagar Division, Hyderabad, demanding to pay disputed tax of Rs.68,72,482/- for the year 2010-11.

2. The petitioner is a Private Limited Company, engaged in the business of manufacture and sale of towers and tower parts and registered as a Dealer under the provisions of A.P. VAT Act, 2005 on the rolls of the 1st respondent. As against the revised assessment order in TIN.No.28300296487, dated 25.6.2014 passed by the 1st respondent/Primary Authority-Assistant Commissioner (CT), LTU, Saroornagar Division, Hyderabad, demanding to pay a sum of Rs.70,57,951/- towards the balance CST

payable, the petitioner has approached the 3rd respondent-Appellate Deputy Commissioner, Hyderabad Rural Division, Hyderabad. Pending consideration of the appeal, the petitioner filed an interlocutory application for grant of stay of the impugned assessment order. The appellate Deputy Commissioner has stayed collection of disputed tax at Rs.1,77,672/- only and has ordered for payment of remaining balance tax of Rs.68,80,279/- (i.e., Rs.70,57,951/- - Rs.1,77,672/0 = 68,80,279/-). As against the said order, the petitioner further carried the matter by way of revision before the 2nd respondent-Joint Commissioner (CT) – II, who, by impugned order dated 30.12.2014, granted stay of collection of tax of Rs.7,797/- only out of the total disputed tax of Rs.68,80,279/- and rejected to grant stay for the balance disputed tax of Rs.68,72,482/-. Aggrieved by the said order of the revisional authority, the petitioner has filed the instant writ petition for the aforesaid relief.

3. Heard learned counsel for the petitioner as well as the learned Special Government Pleader for Commercial Taxes.

4. It is to be noticed that certain declaration forms, which are not available at the time of assessment, were not filed before the appellate authority, under which the petitioner-assessee is entitled for exemption on such

turnover covered by the said declarations and C-Forms. The said documents are yet to be filed. In view of the pendency of appeal before the appellate Deputy Commissioner, it is not possible to decide various claims made by the petitioner on merits. As per the orders of the 2nd respondent-Joint Commissioner, since the disputed tax liability of Rs.68,72,482/- is pending consideration before the appellate authority, we deem it appropriate to dispose of the writ petition granting stay of enforcement of the impugned order 30.12.2014, on condition of the petitioner depositing half of the impugned demand i.e., 50% of the disputed tax of Rs.68,72,482/-, which comes to Rs.34,36,241/-, within a period of six weeks from today. While computing 50% of the disputed tax, the amount representing 12.5% of the disputed tax, which was already paid as a pre-condition for filing an appeal, shall be given credit to. On such deposit, no coercive steps shall be taken against the petitioner. Further, the 3rd respondent-appellate Deputy Commissioner is directed to dispose of the appeal filed by the petitioner as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

5. Subject to the above observations, this writ

petition is disposed of at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE ANIS

27.01.2015.
Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE Mrs. JUSTICE ANIS

WRIT PETITION No.1010 of 2015

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Msr