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

WRIT PETITION No.39594 of 2014

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

This writ petition is filed by M/s. South Central Railway Catering Unit, Vijayawada, represented by its Divisional Commercial Manager, South Central Railway, Vijayawada, questioning the Notice bearing Rc.No.SA-6/28/2008, dated 29.10.2014, issued by the 1st respondent-Commercial Tax Officer, Seetharampuram Circle, Vijayawada, clarifying that the petitioner is liable to pay a sum of Rs.39,65,821/- towards arrears of sales tax.

2. Heard learned counsel for the petitioner and the learned Government Pleader for Commercial Taxes appearing for the respondents.

3. The petitioner is an assessee on the rolls of 1st respondent-Commercial Tax Officer, Seetharampuram Circle, Vijayawada. By the aforesaid notice, it is clarified that the petitioner is liable to pay a sum of Rs.39,65,821/- towards arrears of sales tax for the assessment years 2003-04 and 2004-05. In the notice itself, it is mentioned that in the notice dated 25.10.2014, it was wrongly mentioned as the arrears of Rs.39,65,821/- for the year

1999-2000 due to typographical error, but the arrears are relating to the years 2003-04 at Rs.9,25,073/- and 2004-05 at Rs.30,40,748/-, thus totalling to Rs.39,65,821/-. It is submitted by the petitioner that as against the assessment order pertaining to the year 1999-2000, an appeal is already pending before the appellate Deputy Commissioner (CT), Vijayawada.

4. It is stated that as against the assessment orders for the financial years 2001-02, 2002-03, 2003-04 and 2004-05 (upto 16.02.2005), disputing levy of sales tax in a sum of Rs.3,44,35,168/-, the appeals filed by the petitioner before the Sales Tax Appellate Tribunal, Visakhapatnam, were dismissed by a common order dated 3.10.2011 in T.A.Nos.216/2007, 249/2007, 113/2008 and 34/2009, and the same were confirmed by this Court by a common order dated 1.8.2012 (3 cases) and order dated 27.8.2012 in Tax Revision Case Nos.76, 78, 86 and 99 of 2012, respectively. It is further stated that as against the said orders of this Court, the petitioner has carried the matter to the Supreme Court in SLP(C) Nos.29556-29558 of 2013 and 4744 of 2014 and the same are pending for adjudication.

5. The impugned order merely clarified the amount payable by the petitioner in a sum of Rs.39,65,821/- towards arrears of sales tax for the assessment years

2003-04 and 2004-05, the assessment orders of which are subject matter of appeals in SLP(C) Nos.29556-29558 of 2013 and 4744 of 2014 before the Supreme Court. Therefore, it is not open for the petitioner to question the clarificatory order dated 29.10.2014 wherein it is clarified that the petitioner is liable to pay a sum of Rs.39,65,821/- towards arrears of sales tax for the assessment years 2003-04 and 2004-05. The petitioner can seek appropriate orders from the Supreme Court, where appeals are pending against the assessment orders for the financial years 2001-02, 2002-03, 2003-04 and 2004-05.

6. For the aforesaid reasons, we do not find any merit in this writ petition warranting interference by this Court.

7. Accordingly, this writ petition is dismissed at the admission stage. 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

03.02.2015.

Msr

HON’BLE SRI JUSTICE R.SUBHASH REDDY
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