THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

THE HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

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<u>WRIT PETITION No.8615 of 2015</u>

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<u>ORDER</u>: (*Per Hon'ble Sri Justice R. Subhash Reddy*)

In this writ petition, the petitioner has questioned the order dated 05.05.2014 in CCT's Ref.No.LV(1)/79/2014 passed by the 1st respondent-Joint Commissioner (CT) (Legal), rejecting the application filed by the petitioner seeking stay of collection of disputed tax, pending disposal of appeal before the Sales Tax Appellate Tribunal.

The petitioner is a registered dealer under the provisions of the AP VAT Act and CST Act and is on the rolls of the Commercial Tax Officer, R.P.Road Circle, Secunderabad Division. The petitioner is engaged in the business of manufacturing Switch Fuse Units. For the assessment year 2010-11, the assessing authority has passed the assessment order, dated 11.01.2012, levying tax at the rate of 14.5%. It is the case of the petitioner that Switch Fuse Units would fall within the ambit of Entry 121 of IV Schedule to the AP VAT Act and, as such, levying tax at 14.5% is incorrect. As against the assessment order, the petitioner has filed an appeal before the 2nd respondent-Appellate Deputy Commissioner (CT), Secunderabad Division, but the same was dismissed by order dated 06.02.2014. Aggrieved thereby, the petitioner has preferred an appeal before the Sales Tax Appellate Tribunal (for short 'the Tribunal'). Pending appeal before the Tribunal, the petitioner has filed stay petition before the 1st respondent-Joint Commissioner (CT) (Legal), seeking stay of collection of the disputed tax, but the 1st respondent has passed the impugned order dated 05.05.2014, rejecting the stay petition filed by the petitioner. Hence, this writ petition.

Heard Sri B.Srinivas, learned counsel for the petitioner, and Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, appearing for the respondents.

Admittedly, the petitioner has already paid 50% of the disputed tax and the appeal filed by the petitioner is pending before the Tribunal. In view of payment of 50% of the disputed tax as per the condition precedent for filing an appeal, we deem it appropriate to dispose of the writ petition directing the respondents not to take any coercive steps to realise the balance disputed tax from the petitioner, pending disposal of appeal by the Tribunal. Further, the Tribunal shall dispose of the appeal filed by the petitioner as expeditiously as possible, preferably within a period of four months from the date of receipt of this order.

Subject to the above directions, the writ petition is disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

30.03.2015

v v