IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
W.P. No. 23168 of 2015

Between:

M/s.Tirupathirayudu Cotton Traders .. Petitioner

And

State of Andhra Pradesh
and three others .. Respondents

Date of Judgment Pronounced: 27.07.2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE G. CHANDRAIAH
&
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

1. Whether Reporters of Local newspapers may be allowed to see the judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the judgment? Yes/No

O R D E R: - (per Hon'ble Sri Justice Challa Kodanda Ram)

Notice of Attachment dated 24.06.2015 issued under Section 36 of the A.P. Revenue Recovery Act, 1864 in Form No.7, by the 4th respondent-Deputy Commercial Tax Officer-2, Chilakaluripet Circle, Guntur district, is challenged in this Writ Petition.

2. Learned counsel for the petitioner submits that the 4th respondent, without issuing copy of assessment order for the year 2006-2007 for which period the alleged demand of tax is Rs.16,83,895/-, directly issued impugned Notice to the petitioner demanding a total tax of Rs.48,02,474/- for various assessment years including the year 2006-2007. He further submits that the petitioner made an application dated 20.07.2015 requesting the 2nd respondent to grant instalments for payment of arrears of the demanded tax as the petitioner is facing cash crunch on account of the loss suffered in the business of cotton lint.

3. On the other hand, learned Government Pleader for Commercial Tax Department (A.P.) submits that the assessment order which has been made for the year 2006-2007 is not challenged and in spite of the opportunity given to the petitioner to pay the arrears of tax due under the CST Act & APVAT Act, the petitioner has not paid any amount so far.

4. Having considered the rival submissions, we do not see any reason to interfere with the order of attachment, particularly when there is no dispute with regard to the tax payable. However, considering the fact that Section 22 (6) of the A.P.V.A.T. Act enables the Deputy Commissioner of Commercial Taxes to grant facility of payment in instalments taking into account the hardship of the assessee in payment of money and in view of the fact that the petitioner is stated to have already submitted the application dated 20.07.2015 seeking grant of instalments to make payment of tax, we deem it appropriate to direct the 2nd respondent-Deputy Commissioner (C.T.) to consider and dispose of the application of the petitioner in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Further, it is made clear that till the 2nd respondent passes orders on the application of petitioner, the respondents-authorities shall not take any coercive steps against the petitioner for recovery of the tax due.

5. With the above direction, the Writ Petition is disposed of at the admission stage. There shall be no order as to costs.

6. As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

27th July, 2015

CHALLA KODANDA RAM, J

bcj