4THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

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

WRIT PETITION No.8516 of 2015

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

In this writ petition, the petitioner has questioned the order dated 09.03.2015 in G.C.No.42/2013-14 passed by the 3rd respondent-Deputy Commercial Tax Officer-II, Tirupathi-I Circle, Tirupathi.

The petitioner is a registered dealer under the provisions of the Central Sales Tax Act (CST Act) in the State of Tamil Nadu. In the auction conducted by Tirumala Tirupathi Devasthanam (T.T.D), the petitioner has purchased human hair and when the same was in transit, the 3rd respondent has seized it on the ground that it was not supported by necessary documents. On an earlier occasion, when similar situation arose, the petitioner has approached this Court in W.P.No.21929 of 2013 and the same was disposed of along with W.P.Nos.26345 & 26374 of 2013, by order dated 09.06.2014. Thereafter review applications were filed and pursuant to the directions issued by this Court on 27.01.2014 in Review WPMP.Nos.8257 and 8258 of 2015 in WP.Nos.21929 and 26374 of 2013 and in Contempt Case No.1601 of 2014, the 3rd respondent has passed the impugned order, dated 09.03.2015, fixing tax liability on the petitioner at Rs.13,51,540/-, which is already paid.

Sri Vedula Srinivas, learned counsel for the petitioner, submitted that as much as the petitioner is an auction purchaser, absolutely there is no basis for imposing tax on him. It is further submitted that the commodity is purchased only for the purpose of export, but not for selling within India, as such, it is not covered by the provisions of the AP VAT Act, so as to impose tax. It is also submitted that pursuant to the impugned order, further proceedings are initiated to impose penalty also.

Against the impugned order of the 3rd respondent, the petitioner has got the remedy of appeal under the provisions of the AP VAT Act, to the Appellate Deputy Commissioner (CT), Kurnool and he is having time upto 9th April, 2015 for preferring such appeal. In view of the effective alternative remedy of appeal available to the petitioner, we are of the view that there is no reason to entertain this writ petition at this stage, as all the pleas put forth by the petitioner can be raised in the appeal before the Appellate Deputy Commissioner.

As much as the commodity, which the petitioner claims to have purchased, is sold in auction by the agency of TTD and in view of the availability of alternative remedy of appeal against the impugned order, we deem it appropriate to dispose of this writ petition, permitting the petitioner to approach the Appellate Deputy Commissioner (CT), Kurnool, by filing appeal within the statutory time limit referred above. On filing proof of preferring such appeal, the respondents shall not proceed further pursuant to the show cause notice, dated 16.03.2015, till such appeal is disposed of by the Appellate Deputy Commissioner. It is needless to observe that the Appellate Deputy Commissioner shall dispose of the appeal as expeditiously as possible.

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

<u>Note</u>: Issue CC by 01.04.2015

B/o

v v