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

WRIT PETITION No.2533 of 2015

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

Heard learned counsel for the petitioner and learned Special Standing Counsel for Commercial Taxes and, at their request, the writ petition itself is taken up for final disposal at the stage of admission.

This writ petition is filed questioning the assessment order, dated 17.12.2014, in A.O.No.18844 in Tin No. 28780174057, passed by the 4th respondent-Commercial Tax Officer-I, Benz Circle, Vijayawada, demanding the petitioner-dealer to pay Luxury Tax of an amount of Rs.14,44,370/-.

The petitioner is a company registered under the Companies Act, 1956 and also registered dealer on the rolls of the 4th respondent under the provisions of the A.P. Tax on Luxuries Act, 1987. It is engaged in providing the services of medical treatment and hospital facilities to the patients who approach it. On 10.05.2013, the Vigilance and Enforcement officials visited the premises of the petitioner and, on their verification, they noticed that the management of the petitioner has paid luxury tax on collection of room rent for some rooms only and that though they collected room charges at Rs.1,500/- per day from the inpatients of Arogyasri Scheme and also the regular inpatients during their treatment in Intensive Critical Care Unit (ICCU)/Medical Intensive Care Unit (MICU), they failed to file the report of such turnover in Form-I Luxury Tax Returns and did not pay tax thereon. On these allegations, the petitioner was issued show cause notice, calling for objections. Pursuant thereto, the petitioner has filed his objections. Ultimately, the 4th respondent passed the impugned assessment order. Hence, this writ petition.

It is the case of the petitioner that when the patients are in ICCU/MICU for treatment, the same cannot be considered as they are in rooms and, therefore, the charges collected towards ICCU/MICU does not attract Luxury Tax.

In the impugned order, while referring to the objections filed by the petitioner, the assessing authority stated as under:

> "The objections raised by the assessee have been thoroughly examined and not considered for the reasons as discussed facts and legal

> provisions in the show cause notice dated 19th September, 2014. Therefore the objections raised by the assessee are not tenable and above proposed tax is hereby confirmed."

From the above findings, it is clear that the objections of the petitioner are not considered in detail with reference to the allegations made. Hence, we deem it appropriate to set aside the impugned assessment order and remand the matter to the assessing authority for passing fresh orders.

Accordingly, the writ petition is allowed setting aside the assessment order, dated 17.12.2014, passed by the 4th respondent and the 4th respondent is directed to consider the objections raised by the petitioner and pass orders afresh in accordance with law, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

JUSTICE R.SUBHASH REDDY

Dr.JUSTICE B.SIVA SANKARA RAO,J

09.02.2015

v v