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

**WRIT PETITION No.1778 of 2015**

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

This writ petition is filed by the petitioner seeking Writ of Prohibition and interdict the respondents from proceeding further in pursuance of the impugned Notice vide TIN.No.37931193619, dated 9.1.2015 issued by the 2nd respondent-Assistant Commissioner (CT)-VI, Enforcement Wing, O/o. Commissioner (CT), Andhra Pradesh, Hyderabad.

2. The petitioner is a Company incorporated under the Laws of Cayman Islands, having its Registered Office at Grand Cayman, Cayman Islands, and engaged in drilling operations in the offshore waters all over the world on day rate basis. It has been awarded contracts by the Indian companies viz., Oil and Natural Gas Corporation Limited and Reliance Industries Limited for the purpose of exploration and development of the blocks awarded to them by the Government of India. The 2nd respondent has issued Notice vide TIN.No.37931193619, dated 9.1.2015 alleging that the turnover declared by the petitioner is not accurate based on the audit findings and discrepancies noticed during the course of audit and accordingly invited objections for the proposed assessment. Aggrieved by the same, the petitioner has filed the present writ petition

for the aforesaid relief.

3. Sri S.R. Ashok, learned Senior Counsel, representing Sri Bhaskar Adiraju, learned counsel appearing for the petitioner, contends that the contracts, which are subject matter of assessment, are entered at Mumbai in Maharashtra State and, as such, the authorities in Andhra Pradesh have no jurisdiction to assess the subject contracts under the provisions of the Andhra Pradesh Value Added Tax Act, 2005 (for brevity "the Act"). The learned Senior Counsel would further contend that the operations of the petitioner and the contractual conditions only involve service and does not involve any hiring of machinery and necessary Service Tax is being paid in the State of Maharashtra. It is also contended that one agreement was entered in Mumbai and as regards the other agreement, the stamp paper for execution of the contract indicates that they were purchased in Mumbai and, as such, the respondents cannot proceed with the assessment.

4. On the other hand, the learned Government Pleader for Commercial Taxes, Andhra Pradesh, sought to sustain impugned notice.

5. Heard learned counsel for the parties and perused the impugned notice dated 19.1.2015.

6. A perusal of the impugned notice dated 19.1.2015 shows that certain allegations are made against the petitioner. Whether the 2nd respondent is

having competency to assess the petitioner or not is a matter for examination after considering the objections filed by the petitioner. Therefore, we do not find any merit in this writ petition for grant of prohibition as sought for by the petitioner. At the same time, the petitioner is apprehending that the 2nd respondent may not consider its objections in proper perspective.

7. Therefore, we deem it appropriate to dispose of the writ petition permitting the petitioner to file objections with regard to the proposed assessment for the subject matter of contracts within a period of six weeks from today and, on such objections being filed, the 2nd respondent is directed to consider the specific objections raised by the petitioner with regard to the jurisdiction and competency to assess the petitioner under the provisions of the Andhra Pradesh Value Added Tax Act, 2005, by taking into consideration the material placed before him along with the objections and pass appropriate orders in accordance with law.

8. Subject to the above directions, this writ petition is disposed of 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
AND
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WRIT PETITION No.1778 of 2015

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