HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.8314 of 2015

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

This writ petition is filed by the petitioner questioning the order in CCT's Ref.LII(1)/135/2014, dated 4.2.2015, passed by the 3rd respondent-Additional Commissioner (CT) (Legal), Andhra Pradesh, Hyderabad, dismissing the petition filed seeking to grant stay of collection of disputed tax, pending disposal of the appeal before the Sales Tax Appellate Tribunal, Hyderabad.

2. The petitioner is a Works Contractor and executed works i.e., operation and maintenance of screening plant for processing of C.L.O. rakes to National Mineral Development Corporation Limited, Visakhapatnam, and is a VAT registered dealer on the rolls of the 1st respondent-Commercial Tax Officer, Visakhapatnam. The Deputy Commercial Tax Officer, Dabagardens Circle, Visakhapatnam, has conducted audit of the petitioner concern for the period from May, 2007 to May, 2011 and passed an assessment order dated 30.6.2011. Subsequently, the 2nd respondent-Deputy Commissioner (CT) (Legal), Hyderabad, proposed to revise the assessment order passed by the Deputy Commercial Tax Officer, on the ground that the Deputy Commercial Tax Officer has calculated labour percentage with reference to materials, instead of calculating on total receipts, and accordingly confirmed the proposed revision by order dated 26.4.2014, while allowing the admissible deductions, and thus arrived at a shortfall of tax of Rs.12,38,238/-. As against the said order, the

petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal, Hyderabad, by depositing 1/4th of the disputed tax. To stay recovery of balance disputed tax of Rs.9,28,679/-, the petitioner moved the 3rd respondent-Additional Commissioner (CT) (Legal), Hyderabad, who, intrun, dismissed the said application by order dated 4.2.2015. Hence, the present writ petition.

3. Various contentions are raised by the learned counsel for petitioner with regard to the validity of the passed by the revisional authority. In view of the pendency of appeal before the Sales Tax Appellate Tribunal, Visakhapatnam, we feel that it is not desirable to go into the merits of the matter. As it is not in dispute that the petitioner has already deposited 1/4th of the disputed tax as a condition precedent for filing appeal before the Sales Tax Appellate Tribunal, we deem it appropriate to dispose of the writ petition directing the respondents not to take any coercive steps for recovery of balance disputed tax payable by the petitioner till disposal of the appeal. The Sales Tax Appellate Tribunal, Visakhapatnam, 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 a copy of this order.

4. Subject to the above directions, this writ petition is disposed of. 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

27.03.2015.

Msr

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