HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

MONDAY, THE TWENTY THIRD DAY OF MARCH,
TWO THOUSAND AND FIFTEEN

:PRESENT:

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

WP .NO:7308 of 2015

Between:

M/s. Sri Lakshmi Rice Mill, # 16/137, G.B.C. Road, Epurupalem, Chirala Mandal, Prakasam District, Rep. by its Managing Partner Sri Chakka Adi Surya Prakasa Rao S/o. Venkateswarlu, Prakasam District.

..... Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Revenue (CT) Department, A.P. Secretariat, Hyderabad.
2. The Commissioner of Commercial Taxes, Andhra Pradesh, C.T. Complex, M.J. Road, Opp. Gandhi Bhavan, Hyderabad.
3. The Asst. Commissioner (CT) (VMU-II), O/o. the Deputy Commissioner (CT), Nellore Division, Chirala Circle, Prakasam District.

.....Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent, the Assistant Commissioner (CT), (VMU-II), Nellore Division, Nellore District, in passing the Assessment Order in Ref. A.O. No.15502, dated 10-11-2014 levying tax Under Section 4 (4) of the AP VAT Act, 2005 on purchases of paddy from farmers within the State of Andhra Pradesh used for obtaining rice and husk exempt from payment of tax as illegal, arbitrary, unjust, without authority of law, jurisdiction and violative of Articles 14, 19 (1)(g) and 265 of the Constitution of India and contrary to the definition of " Business " defined in Section 2 (6) "Dealer" defined in section 2 (10) and " Sale " defined in section 2 (28) of the AP VAT Act, 2005 and the law laid down by this Hon'ble court and various other High Courts and the Hon'ble Apex Court reported in 24 APSTJ P1, 29 APSTJ P1, 54 APSTJ PI, 90 STC 537, 2007 4 SCC P.30 and Civil Appeal No. 603/2004 and Civil Appeal No.3129/1995 as also barred by limitation and consequently to set aside the same.

The petition coming on for hearing, upon perusing the Petition and affidavit filed herein, and upon hearing the arguments of Sri Krishna Mohan Kotturi, Advocate for the Petitioner, and of GP for Commercial Taxes for Respondent Nos 1 and 2, the Court made the following.

ORDER:

It is submitted by the learned Government Pleader that they are intending to move review petition seeking review of the judgment in batch of cases connected to this Writ Petition.

Post after three weeks.

Pending further orders, no coercive steps shall be taken for collecting the disputed tax.

ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1. The Principal Secretary, Revenue (CT) Department, State of A.p., A.P. Secretariat, Hyderabad.
2. The Commissioner of Commercial Taxes, Andhra Pradesh, C.T. Complex, M.J. Road, Opp. Gandhi Bhavan, Hyderabad.
3. The Asst. Commissioner (CT) (VMU-II), O/o. the Deputy Commissioner (CT), Nellore Division, Chirala Circle, Prakasam District.

   (Addressee Nos 1 to 3 by RPAD)
4. Two CCs to GP for Commercial Tax (AP), High Court, Hyderabad (OUT)
5. One CC to Sri K. Krishna Mohan, Advocate (OPUC)
6. Two spare copies

Skm

HIGH COURT

RSR,J & DR. SSRB,J

Drafted by: skm
Drafted on: 23-03-2015

DATE: 23-03-2015

NOTE: POST AFTER THREE WEEKS

ORDER

WP. NO. 7308 of 2015

DIRECTION