HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.20896 OF 2015

ORDER:- (per GC,J)

The writ petition is filed questioning the proceedings dated 09.06.2015, issued by the respondents in the District Gazette Notification Register S.L.No.52/2015, under Section 27 of Andhra Pradesh Revenue Recovery Act, 1864 (for short "the Act").

The facts as set out in the writ petition are that the petitioner is a partnership firm and is registered dealer on the rolls of the 1st respondent. It is stated that the petitioner is an authorized dealer of LML Scooters in Rajahmundry town. For the assessment year 2001-2002, petitioner was assessed and fell in arrears of sales tax dues for a sum of Rs.4,81,045/-. Thereafter, pursuant to the order dated 13.02.2012 of this Court in W.P.No.24148 of 2008, petitioner paid a sum of Rs.1,00,000/- and finally the said writ petition came to be dismissed. In other wards the amount of Rs.4,81,045/- towards sales tax arrears became due and payable by the petitioner's firm. For recovery of the said sum, now the revenue authorities by invoking the provisions of the Act had taken steps and a notification of attachment under Section 27 of the Act, was issued. Challenging the same, the petitioner filed the present writ petition.

Though the learned counsel for the petitioner submits that the petitioner was not liable to pay the tax amount and further, at any rate, the property attached is the property of the individual who is a partner and the property of the partner could not have been attached, we do not find any substance in such submission. In the light of Section 24 of the A.P. Value Added Tax Act, 2005, where any firm is liable to pay any tax or other amount under the Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment. The provision is not challenged before us. In that view of the matter, we do not see any merit in the challenge made by the petitioner with respect to the levy. However, in the alternative, considering the prayer of the petitioner that some opportunity of time is granted, petitioner would make an effort to pay the tax amount due. The learned Government Pleader for Commercial Tax Department pointed out to Section 22(6) of the Act which reads as under:

> "Section 22 (6) (a) The Deputy Commissioner, on an application made by a VAT dealer or any other dealer, permit the payment of any tax, penalty or other amount due under the Act in such instalments within such intervals and subject to such conditions, as he may specify in the said order, having regard to the circumstances of the each case;
>
> (b) Where such payment in instalments is permitted, the dealer shall pay in addition to such tax, penalty, instalment or other amount, interest at the rate of one percent per month for the amount for the period from the date specified for its payment on the instalments so permitted."

Section 22(6) of the Act gives an opportunity to a dealer to approach the Deputy Commissioner, Commercial Tax Department seeking facility of paying the tax in installments. In that view of the matter, the petitioner may approach the Deputy Commissioner (CT) concerned by filing a representation. On such filing of representation, the Deputy Commissioner of Commercial Tax Department shall consider and dispose of the same within a period of three months from today.

Inasmuch as the petitioner seeks to avail the alternative remedy available under Section 22(6) of the Act and in view of the facts of the present case, we deem it appropriate to stay all further proceedings pursuant to the Gazette Notification dated 09.06.2015, issued by the respondents till such time as the Deputy Commissioner (CT) disposes of the representation submitted by the petitioner.

With the above observations, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any pending in this petition, shall stand closed.

G. CHANDRAIAH,J

CHALLA KODANDA RAM,J

Date:14.07.2015.
Gk

HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

<u>WRIT PETITION No.20896 OF 2015</u>

Date:14.07.2015.

Gk