HON'BLE SRI JUSTICE G.CHANDRAIAH

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HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No. 21008 of 2015

DATE: 29.09.2015

Between:

M/s. Sudha Theater .. petitioner

And

1. The State of A.P.
2. The Asst. Commercial Tax Officer
3. The Revenue Divisional Officer
4. The Regional Vigilance & Enforcement Officer ..
Respondents

<u>O R D E R</u>:- (per Hon'ble Sri Justice G. Chandraiah)

The main grievance of the writ petitioner - proprietor of M/s.Sudha Theater (air-conditioned) is that even though he has already paid tax for the assessment years for the period 2007-2008, 2008-2009 and 2009-2010 and the same was approved and clearance certificates dated 25.01.2010 and 30.07.2011 have been issued by the authorities concerned, a Show Cause Notice dated 20.03.2010 proposing to levy Rs.1,85,135/- towards differential entertainment tax was issued to the petitioner, and upon the petitioner filing objections to the Notice, the 2nd respondent – Assistant Commercial Tax Officer, without considering the objections and without following the procedure prescribed under the provisions of the A.P. Entertainment Tax Act, 1939, issued the impugned proceedings dated 19.10.2010 confirming the demand of levy of tax for the period from 01.09.2007 to 28.05.2009 by virtue of the G.O.Ms.No.604, dated 22.04.2008. Hence, the present writ petition is filed seeking to set aside the Notice as well as the impugned proceedings and for appropriate directions.

On 14.08.2015, this Court, after due deliberations in the matter, directed the 1st respondent to file an affidavit as to why the impugned proceedings, which had become final on account of non-filing of an appeal by the petitioner within the stipulated time, have not been implemented thereby depriving the revenue of the State and adjourned the matter. On 11.09.2015, this Court, at the request made by the learned Government Pleader for Commercial Tax, further adjourned the case to this day. Today, when the matter is taken up for hearing, the learned counsel for the petitioner has submitted that being aggrieved by the impugned proceedings, the petitioner filed an appeal before the appellate authority as contemplated under Section 9-B of the A.P. Entertainment Tax Act, 1939 and Rule 38 of A.P. Entertainment Tax Rules, 1939 and the same is pending adjudication, as such, no further orders need be passed in this writ petition.

In view of the submission made by the learned counsel for the petitioner that a statutory appeal has already been preferred by the petitioner before the appellate authority, this writ petition is dismissed as no further orders are required to be passed. No order as to costs.

As a sequel to dismissal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

29.09.2015

CHALLA KODANDA RAM,J

bcj