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

WRIT PETITION No.36212 OF 2012

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

This Writ Petition is filed seeking to declare the action of respondent No.1 in insisting for payment of the balance disputed tax for the assessment year 2001 – 02 under the provisions of A.P. General Sales Tax Act, 1957 (for short, 'APGST Act') as illegal and arbitrary and consequently, to restrain him from taking any coercive steps for recovery of the balance disputed tax of Rs.10,11,154/- out of total disputed tax of Rs.20,23,275/- pursuant to the order, dated 31.05.2012, passed in T.A.No.626 of 2007 by the Sales Tax Appellate Tribunal.

Petitioner is a registered dealer under the provisions of APGST Act on the rolls of Commercial Tax Officer, Narayanaguda Circle, Hyderabad, undertaking works contract in roads, construction of buildings etc. The assessing authority, by order, dated 04.01.2003, finalised the assessment proceedings for the tax period 2001 – 02 basing on the statements and certificate of Audit filed by the Chartered Account by taking the gross turnover at Rs.5,49,07,969/-, exempted turnover at Rs.4,51,49,105/- and net turnover at Rs.97,58,864/-. The Deputy

Commissioner (Commercial Taxes) scrutinised the assessment record and on the ground that the assessing authority did not arrive at sales turnover as per Rule 6 (2) of the APGST Rules and allowing of such order will cause prejudice to the interests of Revenue, has initiated revisional proceedings and passed order, dated 30.12.2006, assessing the tax payable by the petitioner at Rs.28,03,985/-. Against the orders of the revisional authority, the matter was carried by way of an appeal to the Andhra Pradesh Sales Tax and VAT Appellate Tribunal, Hyderabad, by depositing 50% of the disputed tax. The appellate Tribunal, by order, dated 31.05.2012, has dismissed the appeal and aggrieved by the same, petitioner has preferred T.Rev.C.No.107 of 2012, which is pending consideration before this Court. As respondent No.1 was taking steps to realise the balance tax payable by the petitioner, after disposal of the appeal by the Tribunal, this Writ Petition was filed in the year 2012 and this Court, by order, dated 23.11.2012, while admitting the Writ Petition, passed interim order, which is continuing all along.

Inasmuch as it is not in dispute that T.Rev.C.No.107 of 2012 is pending consideration before this Court and further, 50% of the disputed tax was already paid, we deem it appropriate to dispose of the Writ Petition by continuing the interim order, dated 23.11.2012, till the disposal of aforesaid T.Rev.C. by this Court. However, the respondents are directed not to take any coercive steps for recovery of the balance tax payable by the petitioner, pending disposal of aforesaid T.Rev.C.. Further, it is open to the parties to take steps for expeditious disposal of the T.Rev.C..

Subject to the above, the Writ Petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No costs.

R.SUBHASH REDDY, J

Dr. B. SIVA SANKARA RAO, J

February 09, 2015

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