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

WRIT PETITION No.7097 of 2015

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

This writ petition is filed aggrieved by the order dated 07.02.2015 passed by the 1st respondent-Additional Commissioner (CT) Legal, rejecting the application for grant of stay of collection of the disputed tax pending disposal of the appeal before the Sales Tax Appellate Tribunal (for short 'the Tribunal').

The petitioner is a registered assessee on the rolls of the 3rd respondent-Assistant Commissioner (CT) LTU, Chittoor Division, under A.P. VAT Act and is engaged in the business of supplying food and drinks. The 3rd respondent passed the assessment order, dated 13.06.2010, in A.A.O.No.39836, directing the petitioner to pay the under declared input tax of Rs.6,35,306/-. As against the same, the petitioner filed W.P.No.20028 of 2013 before this Court. However, in view of the order, dated 06.08.2013, passed in W.P.No.31 of 2013 and batch, this Court disposed of the said writ petition through order, dated 14.11.2014, relegating the petitioner to approach the Tribunal. In pursuance thereof, the petitioner filed an appeal under Section 33 (1) (c) of the APVAT Act before the Tribunal. Pending disposal of the appeal, the petitioner filed an application, seeking stay of collection of the disputed tax, before the 1st respondent-Additional Commissioner (CT) Legal and the same is rejected by the impugned order dated 07.02.2015.

During the course of hearing, it is submitted by learned counsel for the petitioner that the petitioner has not deposited 50% of the disputed tax before filing an appeal under Section 33 (1) (c) of the APVAT Act. It is also submitted that inasmuch as the appeals filed against the Advance Rulings, are pending before the Tribunal, the petitioner need not pay 50% of the disputed tax before filing an appeal.

We are not in agreement with the submission of the learned counsel for the petitioner. Inasmuch as the petitioner is stated to have filed an appeal under Section 33 (1) (c) of the AP VAT Act before the Tribunal, in view of the proviso thereto, he is under obligation to deposit 50% of the disputed tax, which is a condition precedent for filing the appeal.

Since the petitioner has not paid 50% of the disputed tax before filing an appeal and in view of the pendency of the appeal before the Tribunal, we deem it appropriate to dispose of the writ petition with a direction to the respondents not to take any coercive steps to realise the balance disputed tax on condition of the petitioner depositing 50% of the disputed tax within a period of four weeks from today. Further, the Tribunal is directed to dispose of the appeal as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

Subject to the above, the Writ Petition is disposed of. It is needless to observe that if any amounts are paid by the petitioner, the same shall be taken note 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

18.03.2015
v v