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

WRIT PETITION No.7736 of 2015

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

This writ petition is filed by the petitioner seeking *Mandamus* to declare the action of respondent Nos.1 and 2 in taking coercive steps by issuing Garnishee Notice in Form VAT-206, dated 7.3.2015 to the 5th respondent Bank of the petitioner under Section 29 of the A.P. Value Added Tax Act, 2005 demanding to pay a sum of Rs.1,56,47,622/- towards tax relating to the Assessment Year 2009-10, when the Statutory appeal before the 3rd respondent-Appellate Deputy Commissioner (C.T.), Visakhapatnam Division; and the revision before the 4th respondent-Additional Commissioner (C.T.) (Legal), Hyderabad, are pending consideration, as arbitrary and illegal.

2. The petitioner is a Public Sector Company engaged in erection and commissioning of Power Plants in several States and is a registered dealer on the rolls of 2nd respondent-Commercial Tax Officer, Gajuwaka Circle, Visakhapatnam, under the provisions of A.P. Value Added Tax Act, 2005 and Central Sales Tax Act, 1956. The 2nd respondent has passed the assessment order dated 7.3.2014 determining the tax payable by the petitioner at

Rs.1,66,91,745/-. As against the said assessment order, the petitioner has preferred an appeal bearing No.VSP/VAT/159/14-15 before the 3rd respondent and on refusal to grant stay, the petitioner has filed a revision before the 4th respondent. The grievance of the petitioner is that when the said Statutory appeal and revision are pending before the 3rd and 4th respondents, respectively, respondent Nos.1 and 2 have issued the impugned Garnishee Notice in Form VAT-206, dated 7.3.2015 to the 5th respondent Bank of the petitioner under Section 29 of the A.P. Value Added Tax Act, 2005 demanding to pay a sum of Rs.1,56,47,622/- towards tax relating to the Assessment Year 2009-10. Aggrieved by the same, the present writ petition is filed.

3. Sri G. Narendra Chetty, learned counsel for the petitioner has placed reliance on a decision of this Court in KATURI MEDICAL COLLEGE & HOSPITAL, EDULAPALEM VILLAGE, GUNTUR DISTRICT Vs. COMMERCIAL TAX OFFICER, LALAPET CIRCLE, GUNTUR & OTHERS (APHC)[1], wherein it was held that no coercive steps shall be initiated pending disposal of the stay petition before the Additional Commissioner or the Joint Commissioner.

4. Heard learned counsel for the petitioner, as well as the learned Special Standing Counsel for Commercial Taxes and perused the material on record.

5. It is true that as against the assessment order dated 7.3.2014, the petitioner has carried the matter in appeal before the 3rd respondent-Appellate Deputy Commissioner. As it is stated that the petitioner is a Public Sector Company and the appeal filed by it is listed for hearing on 27.3.2015, we deem it appropriate to dispose of the writ petition with a direction to respondent Nos.1 and 2 not to enforce the Garnishee Notice dated 7.3.2015 till disposal of the appeal. The 3rd respondent-Appellate Deputy Commissioner shall dispose of the appeal as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order.

6. Subject to the above directions, this writ petition is disposed of, at the admission stage. 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

24.03.2015.
Msr

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

WRIT PETITION No.7736 of 2015

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Msr

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[1] (2013) 57 APSTJ 170 (AP)