HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.10059 of 2015

-

<u>ORDER :</u> (per Hon'ble Sri Justice R.Subhash Reddy)

In view of the pendency of appeal before the A.P. Sales Tax Appellate Tribunal, Visakhapatnam, the writ petition is being disposed of, at the admission stage, after hearing Sri S. Dwarakanath, learned counsel appearing for the petitioner as well as the learned Special Standing Counsel for Commercial Taxes appearing for the respondents.

2. This writ petition is filed by the petitioner questioning the order in CCT's Ref.No.LII(2)/19/2015, dated 27.02.2015, passed by the 3rd respondent-Additional Commissioner (CT) Legal, Andhra Pradesh, Hyderabad, refusing to grant stay of collection of disputed tax, pending disposal of the appeal before the A.P. Sales Tax Appellate Tribunal, Visakhapatnam.

3. The petitioner owns four buses, which are registered under the Motor Vehicles Act in the State of Andhra Pradesh. The said buses were hired to the A.P. State Road Transport Corporation by entering into four separate agreements to ply the buses on the notified routes. The 1st respondent-Commercial Tax Officer, Brodipet Circle, Guntur, has passed order dated 4.3.2013 under the provisions of the A.P. VAT Act, 2005 (for brevity "the Act") levying tax of Rs.8,09,964/- for the assessment year 2009-10 on the petitioner alleging that hiring of buses constitutes a sale transaction under Section 2 (28) of the Act. As against the said order, the appeal filed

by the petitioner before the 2nd respondent-Appellate Deputy Commissioner (CT), Guntur Division, Guntur, was dismissed by order dated 19.2.2015. Aggrieved by the said order, the petitioner carried the matter by way of appeal before the A.P. Sales Tax Appellate Tribunal, Visakhapatnam, and the same is pending. During the pendency of appeal, when the 2nd respondent refused to grant stay of collection of balance disputed tax, by order dated 16.12.2014, the petitioner carried the matter in revision before the 3rd respondent-Additional Commissioner (CT) Legal, Hyderabad, who, by order dated 27.2.2015, refused to grant stay of collection of the disputed tax. Challenging the said order, the present writ petition is filed.

4. Though several contentions are raised assailing the validity of the impugned order, in view of the pendency of appeal before the Sales Tax Appellate Tribunal, we are not inclined to go into the merits of the case and record a finding.

5. As it is not in dispute that the petitioner has already deposited 50% of the disputed tax as a condition precedent for filing an appeal before the Sales Tax Appellate Tribunal, Visakhapatnam, we deem it appropriate to dispose of the writ petition directing the respondents not to take any coercive steps for recovery of balance disputed tax of Rs.4,04,982/-, out of total disputed tax of Rs.8,09,964/- for the assessment year 2009-10, payable by the petitioner till disposal of the appeal. The Sales Tax Appellate Tribunal, Visakhapatnam, shall dispose of the appeal filed by the petitioner as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

6. Subject to the above directions, this writ petition is disposed 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

09.04.2015.

Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.10059 of 2015

09.04.2015

Msr