HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

<u>WRIT PETITION No.1259 of 2015</u>

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<u>ORDER</u>: (Per Justice R. Subhash Reddy)

This Writ Petition is filed with the following prayer:

> "… to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the 2nd respondent passed vide JC Order No.13/2015, dated 12.01.2015 confirming the order dated 19.09.2014 passed by the 3rd respondent in ADC Order No.436 (Stay Application R.No.21/2014-15 in Appeal No.PV/23/2014-15) and the consequential distraint order of the 5th respondent in Form-I dated 22.01.2015 issued under Section 8 of the Revenue Recovery Act, 1864 which is communicated through Urgent Notice vide Ref:CTO, Jubilee Hills Rc.TIN No.28210111511, dated 22.01.2015, for recovery of an amount of Rs.5,07,97,534/- as arbitrary, illegal and violative of Articles 14 and 19(1)(g) of the Constitution of India and consequently set aside the same, and pass other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. The Commercial Tax Officer, Jubilee Hills Circle, passed order dated 22.02.2014 assessing the tax payable by the petitioner at Rs.12,07,97,534/-, under the provisions of the A.P. V.A.T. Act, 2005. As against the same, petitioner-dealer carried the matter by way of appeal before the Appellate Deputy Commissioner and sought for interim orders. When the application for grant of interim orders was rejected, petitioner carried the matter by way of revision before the Joint Commissioner. The Joint Commissioner passed the impugned

order dated 12.01.2015 in JC Order No.13/2015, dismissing the revision filed by the petitioner. Hence, this Writ Petition by the petitioner-dealer.

3. During the course of hearing, it is submitted by Sri S. Ravi, learned senior counsel, appearing for the petitioner, that out of the disputed tax of Rs.12,07,97,534/-, petitioner has already paid about 60% of the same, on various occasions; in spite of the same, interim orders are not granted. Learned counsel has advanced several contentions on the validity of the impugned order and has produced material to show that 60% of the disputed tax is already paid.

4. In view of the pendency of appeal before the Appellate Deputy Commissioner, it is not desirable to go into the validity of the order dated 22.02.2014 passed by the assessing authority, i.e. Commercial Tax Officer, Jubilee Hills Circle. It is clear from the material placed before this Court, that about 60% of the disputed tax is already paid by the petitioner. The learned Advocate General, representing the respondents, would submit that no coercive steps will be taken in view of the pendency of the appeal before the Appellate Deputy Commissioner.

5. In view of the payment of about 60% of the disputed tax by the petitioner, and, further, in view of the submission made by the learned Advocate General, we deem it appropriate to dispose of the Writ Petition with a direction to the respondents not to take any coercive steps to realize the balance tax payable by the petitioner pursuant to the order dated 22.02.2014, pending disposal of the appeal by the Appellate Deputy Commissioner. Further, the Appellate Deputy Commissioner is directed to dispose of the appeal as expeditiously as possible, by following due procedure contemplated under law.

5. Writ Petition is accordingly disposed of. No order as to costs. As a sequel, miscellaneous petitions if any pending shall stand closed.

R. SUBHASH REDDY, J

Dr. B. SIVA SANKARA RAO, J

January 29, 2015

ksh/MRR