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

WRIT PETITION No.7446 OF 2015

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

This Writ Petition is filed questioning the order, dated 31.01.2015, passed in A.No.VJA.I/33/2014-15 by the Appellate Deputy Commissioner (Commercial Taxes) (FAC), Vijayawada, refusing to grant stay of collection of disputed tax, pending disposal of the appeal preferred by the petitioner.

Petitioner is a registered dealer under the provisions of Andhra Pradesh Value Added Tax Act, 2005. The Commercial Tax Officer (Int.), No.I Division, Vijayawada, has passed order, dated 04.04.2014, in TIN : 28460284389 determining an amount of Rs.35,31,070/- payable by the petitioner towards difference of tax for the tax period from April, 2009 to June, 2013. As against the order of the assessing authority, petitioner carried the matter by way of an appeal before the Appellate Deputy Commissioner (Commercial Taxes) (FAC), Vijayawada, and also sought to grant interim stay of collection of disputed tax.

By impugned order, dated 31.01.2015, the appellate authority has refused to grant interim order.

Though the order of the assessing authority is questioned on several grounds, in view of the pendency of appeal before the appellate authority, it is for the appellate authority to consider the same. Further, it is not in dispute that petitioner has already deposited 12.5% of the disputed tax, which is a condition precedent for filing the appeal, and the appeal is pending consideration before the appellate authority.

In that view of the matter, we deem it appropriate to dispose of the Writ Petition directing the respondents not to take any coercive steps to realise the balance tax payable by the petitioner on condition of petitioner depositing 1/3rd of the total disputed tax within a period of four (4) weeks from today. It is made clear that 1/3rd of the total disputed tax, as referred to above, is inclusive of 12.5% of tax already deposited by the petitioner as a condition precedent while filing the appeal before the appellate authority. The appellate authority shall dispose of the appeal as expeditiously as possible, preferably within a period of four (4) months from today.

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

March 23, 2015

Note: Issue C.C. in three days.
B/o.MD