THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.40020 of 2016

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri V.Bhaskar Reddy, learned counsel for the petitioner, and Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is disposed of at the stage of admission. The proceedings under challenge in this writ petition is the order passed by the Joint Commissioner (CT)-I, Hyderabad dated 01.11.2016 partly rejecting the petitioner's application for grant of stay pending disposal of the appeal before the Telangana VAT Appellate Tribunal, Hyderabad.

The petitioner's case, in short, is that they only make local purchases of iron and steel and not welding electrodes; they do not deal in fabricated iron and steel items; and, while their invoices disclose that they had only purchased iron and steel, the statement submitted by their auditor, by oversight, records that they had purchased welding electrodes and effected sale of fabricated iron and steel items. The relevant invoices appear to have been placed by the petitioner before the Joint Commissioner who, on the ground that the substantive appeal is pending before the Tribunal, granted stay on condition that the petitioner deposited 50% of the disputed tax.

Sri V.Bhaskar Reddy, learned counsel for the petitioner, would submit that an error committed by their auditor, in the statement submitted to the revisional authority, cannot result in the petitioner being subjected to tax on items which they had not even dealt with; and the order passed by the Joint Commissioner needlessly burdens them with the liability to pay 50% of the disputed tax, though they have already deposited 25% thereof pending disposal of the appeal by the Telangana VAT Appellate Tribunal.

The question whether the petitioner is carrying on business only in purchase of iron and steel and whether they have, by oversight, referred to purchases of welding electrodes and sale of fabricated iron and steel, in the statements filed by them, would necessitate examination by the Tribunal in T.A.No.218 of 2016 pending before it. It would be wholly inappropriate for us to dwell on the merits or otherwise of the order under challenge in this writ petition, as the substantive appeal is pending adjudication before the Tribunal. Suffice it if, pending disposal of the appeal by the Telangana VAT Appellate Tribunal, the respondents are directed not to take any coercive steps for recovery of the disputed tax on condition that the petitioner deposits one-third of the disputed tax within six weeks from today. The amount already paid in this regard shall be given credit to.

The Writ Petition stands disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

21st November 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.40020 of 2016

Date: 21.11.2016

JSU