THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.9991 of 2016

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri Sivaraju Srinivas, learned counsel for the petitioner, and Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes (TG) and, with their consent, the Writ Petition is disposed of at the stage of admission.

Aggrieved by the order passed by the assessing authority, subjecting net work equipment at the customer's premises such as Dish, Set Top Box, Cable, LNBF and Viewing Card etc., to tax, as deemed sale under Section 4 (8) of the A.P. VAT Act, 2005 (for short 'the Act'), the petitioner carried the matter in appeal to the Appellate Deputy Commissioner. They filed an application seeking stay of collection of the disputed tax pending disposal of the appeal. On the stay application being dismissed they preferred a revision, under Section 31 (3) (b) of the Act, to the Joint Commissioner who, by order dated 08.03.2016, dismissed the revision. Aggrieved thereby, they have filed the Writ Petition.

Sri Sivaraju Srinivas, learned counsel for the petitioner, would submit that, in similar circumstances, on the jurisdiction of this Court being invoked by Sun Direct TV, this Court, in its order in W.P. No.3027 of 2016 dated 10.02.2016, after noting the concession of the Special Counsel for the Revenue that stay could be granted on condition that the petitioner deposited 25% of the disputed tax, relegated them to the alternative statutory remedy of appeal; the Supreme Court had, in the appeal preferred against the aforesaid order passed by this Court, granted an interim order on condition that the petitioner deposited 25% of the disputed tax with the concerned authorities within two weeks; and as the petitioner's application for grant of stay, pending disposal of the appeal was rejected initially by the Appellate Deputy Commissioner and thereafter by the Joint Commissioner, this Court should consider granting stay of collection of the disputed tax on the petitioner depositing 25% thereof. Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, would fairly state that a similar order could be passed in the present Writ Petition also.

As the substantive appeal, against the assessment order, is still pending adjudication before the Appellate Deputy Commissioner, we consider it appropriate to dispose of the Writ Petition directing the respondents not to take any coercive steps for recovery of the disputed tax, on condition that the petitioner deposits 25% thereof, with the assessing authority within four weeks from today. The petitioner shall be given credit for any amount already paid by them in this regard.

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

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 30.03.2016
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