HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT PETITION Nos.33884 AND 33892 OF 2016

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

Heard Sri Singam Srinivasa Rao, learned counsel for the petitioner, and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, and, with their consent, these writ petitions are disposed of at the stage of admission.

2. In both these writ petitions, the assessing authority levied tax and penalty on the petitioners restricting the Input Tax Credit, which they claimed credit for, applying the formula prescribed under Rule 20(7) of the A.P. Value Added Tax Rules 2005 (for short 'VAT Rules'), whereas the petitioners claimed that the formula prescribed under Rule 20(6) of the A.P. Vat Rules should have been applied.

3. Against the assessment order, the petitioners preferred an appeal to the Appellate Deputy Commissioner, and claim to have paid 50% of the disputed tax and penalty pending disposal of the appeal. It is their case that, against the order of the Appellate Deputy Commissioner rejecting their application for grant of stay of collection of the disputed tax, they preferred a revision to the Additional Commissioner who, by the impugned order dated 30.08.2016, rejected their request for grant of stay. Against the order of the Appellate Deputy Commissioner, rejecting their request for grant of stay of collection of the disputed penalty, the petitioners have directly invoked the jurisdiction of this Court.

4. Sri S. Srinivasa Rao, learned counsel for the petitioners, would submit that the main appeals, (against the order of assessment and penalty), have already been heard by the Appellate Deputy Commissioner, and that orders have not yet been pronounced.

5. As the petitioner has already paid 50% of the disputed tax and penalty, and since the Appellate Deputy Commissioner has already heard the main appeals, both against the assessment order and the order of penalty, ends of justice would be met if the respondents are directed not to take coercive steps for recovery of the balance 50% tax and penalty due, till the appeals preferred by the petitioners, before the Appellate Deputy Commissioner, are disposed of.

6. Both the Writ Petitions are accordingly disposed of. No costs.

As a sequel thereto, Miscellaneous Petitions, if any pending in these writ petitions stand disposed of.

RAMESH RANGANATHAN, ACJ

A. SHANKAR NARAYANA, J

October 19, 2016.

PV/Mgr