HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.13147 of 2016

ORDER : (*Per Hon'ble Sri Justice Ramesh Ranganathan*)

Heard Sri Madhav Rao, learned counsel for the petitioners and Sri Shaik Jeelani Basha, 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 Appellate Deputy Commissioner (CT), Vijayawada, dated 31.03.2016 rejecting the 1st petitioner's application for grant of stay of recovery of the disputed tax pending disposal of the appeal preferred by them. The 1st petitioner was assessed to tax for the tax period 02.06.2014 to 31.03.2015 by the Assistant Commissioner (CT) (LTU), No. II Division, Vijayawada on 18.01.2016, and tax of Rs.2,91,06,518 was levied on the alleged transfer of the right to use the Set Top Boxes and other equipment supplied by the 1st petitioner to their customers. The petitioners' case, however, is that there has been no transfer of the right to use these goods; and they pay service tax on the services rendered by them to their customers in this regard.

It would be wholly inappropriate for us to express any opinion on the merits of the dispute, as the substantive appeal is pending consideration before the Appellate Deputy Commissioner. Suffice it to observe that in similar circumstances, in the case of another DTH operator, this Court had, by order in W.P.No.12753 of 2016 dated 19.04.2016, disposed of the writ petition directing the respondents not to take any coercive steps for recovery of the disputed tax pending disposal of the appeal by the Appellate Deputy Commissioner on condition that the petitioner therein deposited 25% of the disputed tax within two weeks; and credit for the tax already paid by them was given credit to.

There shall be a similar order in this Writ Petition also. On condition that the 1st petitioner deposits 25% of the disputed tax within two weeks from today, after being given credit for any amount already paid in this regard, the respondents shall not take any coercive steps for recovery of the disputed tax till the appeal is disposed of by the Appellate Deputy Commissioner.

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

RAMESH RANGANATHAN, J

SURESH KUMAR KAIT, J

20.04.2016
v v