HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2938 of 2008

Date: 06.04.2016

Between:

The Nizam Sugars Limited at Lachhayyapet (village),
Seethanagaram (Mandal,) Vizianagaram (District)
and another.

…..Petitioners

and

The Government of Andhra Pradesh, rep.by its
Secretary (Revenue), Secretariat Buildings at
Hyderabad and others.

…..Respondents

The Court made the following:

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.2938 of 2008

ORDER: (Per the Hon'ble Sri Justice P.Naveen Rao)

This writ petition is filed praying to grant the following relief:

> " To issue an appropriate writ order or direction more particularly one in the nature of 'Writ of Certiorari" calling for the records relating to demand of Non-Agricultural Lands Assessment Tax in respect of the petitioner's Sugar Units vide Demand Notice dated 20.11.2007 in Rc.No.515/94/A of the Tahsildar, Seethanagaram (Mandal), Vizianagaram (District) and quash the same and all other consequential proceedings demanding levy of NALA as arbitrary, illegal and without jurisdiction".

2. Petitioner, Nizam Sugars Limited established two units in Lachhayyapet village of Seethanagaram Mandal and Appayyapet village, forming part of the present State of Andhra Pradesh. By the impugned proceedings dated 20.11.2007, the Tahsildar, Seethanagaram, demanded payment of Non-Agricultural Lands Assessment Tax under the Non-Agricultural Lands Assessment Act, 1963 (for short, 'NALA Act'). Learned counsel for petitioners contends that said demand is *ex facie* illegal and shows non-application of mind. Learned counsel contends that Appayyapet unit became defunct long ago and, therefore, there is no question of making demand for payment of tax on that unit. Even for Lachhayyapet Unit total extent of land was wrongly assessed and treating cess payable under the provisions of the District Boards Act, 1920 as component of tax payable under the NALA Act was erroneous. In W.P.No.34331 of 1997, the Division Bench of this Court held that treating the cess payable under the provisions of the District Boards Act, 1920 as component of tax payable under the NALA Act is impressible.

3. Learned Government Pleader contends that the petitioners have not raised any objection against such demand and straightaway instituted this writ petition.

4. Confronted by this objection, learned counsel for the petitioners fairly submits that petitioners do not intend to press this writ petition

and submits that liberty be granted to the petitioners to file an application before the competent authority raising objections as raised in this writ petition and until the objections are considered and disposed of, no coercive action should be taken against the petitioners.

5. Having regard to the said submission, the writ petition is disposed of as under:

i) Petitioners are permitted to withdraw the writ petition with liberty as prayed for.

ii) Petitioners are granted liberty, if so advised, to make an application to the Tahsildar, Seethanagaram against demand of tax under NALA Act vide proceedings Rc.No.515/94/A, dated 20.11.2007.

iii) It is open to the petitioners to raise all objections against such demand as available in law including submissions made in the instant writ petition.

iv) If such application is filed within a period of four weeks from the date of receipt of copy of this order, the respondents shall not take coercive action against the petitioners till appropriate decision is made, by a speaking order, duly considering the objections raised by the petitioners.

Miscellaneous petitions if any pending shall stand closed.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date: 06.04.2016
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HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
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