THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.21921 of 2016

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

The proceedings, under challenge in this writ petition, is the order passed by the Joint Commissioner (CT) – I, Hyderabad dated 30.04.2015 dismissing the petitioner's application for grant of stay pending disposal of the appeal by the Telangana Value Added Tax Appellate Tribunal, Hyderabad in T.A.No.87 of 2015.

Facts, to the extent necessary, are that the petitioner, a proprietary concern carrying on business in the manufacture and sale of Cement, is a registered dealer on the rolls of the 1st respondent. The petitioner was assessed to tax under the A.P. VAT Act, for the assessment year 2008-09, on 25.05.2011. The 2nd respondent issued notice dated 20.03.2014 proposing to revise the assessment order passed by the 1st respondent exercising the powers vested in him under Section 32 (2) of the A.P. VAT Act. The petitioner filed their objections thereto, vide letter dated 10.04.2014, contending that the proposed revision was not maintainable as the turnover, on which the revision was proposed, was not the subject matter of assessment; and the period of limitation, to make the assessment/revision, had expired. The 2nd respondent passed an order dated 15.10.2014 confirming the proposed revision. Aggrieved thereby, the petitioner carried the matter in appeal to the Telangana VAT Appellate Tribunal, Hyderabad in T.A.No.87 of 2015. Pending disposal of the appeal, they invoked the jurisdiction of the Joint Commissioner (CT) – I, Hyderabad requesting him to grant stay of collection of the disputed tax pending disposal of the appeal by the

Tribunal. While the Joint Commissioner (CT) – I took note of the contentions urged on behalf of the petitioner, their application was summarily rejected by a non-speaking order.

While we were initially inclined to set aside the impugned order, and remand the matter to the 3rd respondent directing him to pass a reasoned order afresh, Sri V.Bhaskar Reddy, learned counsel for the petitioner, would submit that, instead, this Court may consider imposing conditions for grant of stay pending disposal of the appeal by the Telangana Value Added Tax Appellate Tribunal, Hyderabad. Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes, fairly states that such an order may be passed by this Court.

While it may not be appropriate for us to express any opinion on the merits of the case, as the substantive appeal preferred by the petitioner is pending adjudication before the Tribunal, suffice it to note that the revisional order is questioned by the petitioner on the ground that it is barred by limitation, and the said order was passed on grounds extraneous to the assessment order sought to be revised. As these questions, among others, necessitate examination by the Tribunal, 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 1/3rd of the disputed tax with the 1st respondent within four (4) weeks from today. The petitioner shall be entitled to be given credit to amounts, if any, already paid in this regard.

The writ petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand closed. There shall be no order as to costs.

JUSTICE RAMESH RANGANATHAN

JUSTICE M. SATYANARAYANA MURTHY

Date:11.07.2016

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