THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION NO.13194 OF 2016

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri Venkat Reddy Chittem, learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes and, at their request, the Writ Petition is disposed of at the stage of admission. With the consent of both the learned counsel, the Branch Manager, Indian Overseas Bank, Chirala, Prakasam District, is impleaded, *suo motu*, as the sixth respondent.

The notice dated 24.03.2016, issued under Section 29 of the Andhra Pradesh Value Added Tax Act, 2005 ("the Act" for brevity), informing them that failure to pay the tax due, for the period August 2007 to February 2012 of Rs.4,03,026/-, would require the bank to pay the amount to the Department, is questioned in this Writ Petition as being illegal and arbitrary.

Based on an authorisation issued by the third respondent, the second respondent conducted an audit of the books of accounts of the petitioner herein for the period August 2007 to February 2012; and, thereafter, passed an assessment order on 31.03.2013. Aggrieved thereby, the petitioner carried the matter in appeal to the appellate Deputy Commissioner who, by his order dated 25.05.2013, set aside the earlier assessment order dated 31.03.2013, and remanded the matter for consideration afresh. Thereafter, the fifth respondent passed a fresh assessment order dated 20.11.2014. Aggrieved thereby, the petitioner again carried the matter in appeal to the appellate Deputy Commissioner before whom the appeal is said to be still pending. While matters stood thus, the fifth respondent issued the impugned notice under Section 29 of the Act on 24.03.2016 calling upon the bank to pay the amounts, available in the petitioner's account with the bank, to them. The petitioner, thereafter, filed an application for stay before the appellate Deputy Commissioner on 30.03.2016, and the said stay application is said to be still pending as on date.

While it does appear that the petitioner had remained silent for nearly a year and half after the earlier assessment order was passed on 20.11.2014, and has filed the stay application only on 30.03.2016, the fact remains that they had preferred the appeal, against the assessment order dated 20.11.2014, within time. We consider it appropriate, in such circumstances, to direct the fifth respondent not to take any further coercive steps, for recovery of the disputed tax, till the stay application filed by the petitioner is disposed of. The appellate Deputy Commissioner shall, at the earliest and in any event not later than six (6) weeks from today, dispose of the stay application in accordance with law. The interest of the revenue would be adequately safeguarded if the sixth respondent is directed to ensure that a minimum balance of Rs.4,03,026/- is retained in the petitioner's account with the sixth respondent bank. While the petitioner may be permitted to operate their bank account, the sixth respondent shall ensure that a minimum balance, of Rs.4,03,026/-, is retained in the said bank account till the order passed by the appellate Deputy Commissioner, on the stay application filed by the petitioner, is communicated to them either by the petitioner or the fifth respondent.

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

(RAMESH RANGANATHAN, J)

(SURESH KUMAR KAIT, J)

22nd April 2016
RRB