THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.37347 of 2016

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

Heard Sri S.Dwarakanath, learned counsel for the petitioner, 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 of the Additional Commissioner (Legal) dated 24.10.2016 is under challenge in this writ petition.

Against the assessment order, for the tax period June 2014 to September 2015 levying tax under Section 4(8) of the A.P. Value Added Tax Act, 2005 on the transfer of the right to use certain equipment, the petitioner preferred an appeal to the Appellate Deputy Commissioner along with an application for grant of stay. As the appeal itself was dismissed, the petitioner preferred a Second Appeal to the A.P.VAT Appellate Tribunal and invoked the jurisdiction of the 2nd respondent seeking stay in the interregnum. By the order impugned in this writ petition the 2nd respondent rejected the petitioner's application for grant of stay. Aggrieved thereby, the present writ petition.

While the Additional Commissioner has passed an elaborate order on merits, it would be wholly inappropriate for us to examine the findings recorded therein on merits, as the substantive appeal is pending consideration before the Appellate Tribunal.

In more or less similar circumstances, in relation to another DTH operator, this Court, by its order in W.P.No.12753 of 2016 dated 19.04.2016, directed the petitioner therein to deposit 25% of the disputed tax within two weeks pending disposal of the appeal by the Appellate Deputy Commissioner. As the petitioner has paid 50% of the disputed tax, which is a pre-condition for a second appeal to be entertained by the A.P.VAT Appellate Tribunal, we consider it appropriate to direct the respondents not to take any coercive steps for recovery of the balance disputed tax pending disposal of the appeal by the A.P.VAT Appellate Tribunal.

With the aforesaid observations, the Writ Petition stands disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

02nd November 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.37347 of 2016

Date: 02.11.2016

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