THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.39825 of 2016

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

The proceedings under challenge in this writ petition is the order passed by the 3rd respondent dated 06.10.2016 for the tax period January 2014 to January 2016 and directing the petitioner to pay the entire disputed tax in two equal monthly instalments pending disposal of the appeal by the Appellate Deputy Commissioner.

The petitioner, a dealer carrying on business as a Multi System Operator, receives and provides TV signals to individual cable operators and is a subsidiary company of M/s.Siti Cable Network Limited. By proceedings in Form VAT 305 dated 24.05.2016, the assessing authority determined the tax payable by the petitioner as Rs.4,69,19,520/- under Section 4(8) of the A.P. Value Added Tax Act, 2005 holding that there was a transfer of the right to use the Set Top Boxes supplied by the petitioner to the local cable operators. Aggrieved by the assessment order, the petitioner carried the matter in appeal to the Appellate Deputy Commissioner and, on the stay application being dismissed, they preferred a revision to the 3rd respondent who passed the impugned order.

While the 3rd respondent has passed an elaborate order, which is questioned in this writ petition on several grounds, it would be wholly inappropriate for us to dwell on the merits of the order, as the substantive appeal is pending adjudication before the Appellate Deputy Commissioner. As, in similar circumstances, stay was granted pending disposal of the appeal on condition of payment of 25% of the disputed tax, we consider it appropriate to set aside the impugned order passed by the 3rd respondent and to direct the respondents not to take any coercive steps for recovery of the disputed tax on condition that the petitioner deposits 25% of the disputed tax before the assessing authority within two weeks from today. The petitioner shall be given credit for the amount already paid by them in this regard.

The Writ Petition stands disposed of accordingly. 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)

21st November 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.39825 of 2016

Date: 21.11.2016

JSU