THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.19519 OF 2016

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

Heard Sri S.Dwarakanath, learned counsel for the petitioner and Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

The jurisdiction of this Court under Article 226 of the Constitution of India is invoked questioning the order passed by the Joint Commissioner dated 30.04.2016 rejecting the petitioner's application for grant of stay of recovery of the balance disputed tax for the period April 2011 to March 2015 pending disposal of T.A.No.79 of 2016 before the Telangana VAT Appellate Tribunal (Tribunal). The petitioner supplies food items to a canteen of a Special Economic Zone (SEZ) unit. For a part of the tax period from April 2011 to 08.07.2013, the petitioner claimed the benefit of exemption under Entry 59 of the First Schedule to the Andhra Pradesh Value Added Tax Act ("the Act" for brevity), and for the period from 09.07.2014 till March 2014 they claimed exemption under Section 7-A of the Act.

Sri S.Dwarakanath, learned counsel for the petitioner, would submit that the Joint Commissioner had relied on an advanced ruling in Amalgamated Bean Coffee Trading Company Limited dated 15.09.2012; the order of the advanced ruling authority does not bind the Tribunal; Entry 59 in the Schedule should be given a wide meaning; there is nothing in Entry 59 which restricts supply of food items to a canteen of an SCZ unit; and, as the petitioner has already paid 50% of the disputed tax, this Court should consider granting stay of collection of the balance disputed tax pending disposal of the appeal. Sri T.Vinod Kumar, learned Special Standing Counsel for Commercial Taxes, would submit that Section 7-A of the Act is not attracted as the goods supplied by the petitioner do not fall within the ambit of the said provision; Entry 59 of the List I, prior to 09.07.2013, must be read in conjunction with the provisions of the SCZ Act; and the petitioner is not entitled to claim exemption for sale of food items to a canteen of an SCZ unit.

As the substantive appeal is still pending adjudication before the Tribunal in T.A.No.79 of 2016, it would be wholly inappropriate for us to examine the rival submissions on merits. As the submission of Sri S.Dwarakanath, learned counsel for the petitioner, that Entry 59 in the First Schedule should be given a wide meaning; and there is nothing in Entry 59 which makes it inapplicable to the supply of food items to a canteen of an SCZ unit cannot be said to be without merit, we consider it appropriate to direct the respondents not to take coercive steps for recovery of the disputed tax on condition that the petitioner pays 60% of the tax, disputed by the assessee before the Tribunal, within a period of four weeks from today. The petitioner shall be given credit for the tax already paid in this regard.

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

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

20^{th} June 2016

RRB