THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.14907 of 2016

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

Heard Sri G.Narendra Chetty, learned counsel for the petitioner, and Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes (A.P), and, with their consent, the writ petition is disposed of at the stage of admission. The action of the respondents in subjecting the petitioner's land to sale, pursuant to a notice issued under Form 7 and 7-A of the Andhra Pradesh Revenue Recovery Act for recovery of tax arrears of Rs.40,50,846/-, is questioned in this writ petition as being arbitrary and illegal.

The petitioner was granted the benefit of Sales Tax Deferment of Rs.92,59,360/- for the period from 01.04.1997 to 30.03.2011 by the proceedings of the Commissioner of Industries, dated 07.02.1998. The petitioner claims to have availed deferment of tax of Rs.59,23,844/- during the period 01.04.1997 to 31.03.2011, and to have paid Rs.4,18,955/- till date. The deferment facility enabled the petitioner to collect tax from their customers, to retain the said amount with them, and repay the said amount without interest after a period of 14 years. What the petitioner has defaulted is in repayment of the amount collected by them, from their customers as sales tax, 14 years ago.

While we were initially inclined not to entertain the writ petition, Sri G.Narendra Chetty, learned counsel for the petitioner, on instructions, would submit that some breathing time be granted to the petitioner to repay the entire amount due; the Government itself had provided for a One Time Settlement; this Court may consider directing the respondents not to proceed with the auction on the petitioner undertaking to pay Rs.20,00,000/- before 15.05.2016, and the balance amount due within three months thereafter.

Sri Shaik Jeelani Basha, learned Special Standing Counsel for

Commercial Taxes, has placed before us a copy of the notification issued in G.O.Ms.No.109 dated 19.02.2013, whereby Rule 67 of the AP VAT Rules was amended and sub-rules (6) to (8) were inserted thereto providing for pre-payment of deferred tax at a discounted rate. The discount rate stipulated, in terms of G.O.Ms.No.484 dated 30.08.2013, was 7.25%. While the said discount rate is said to be for a period of one year, Sri Shaik Jeelani Basha, learned Special Standing Counsel, would submit that the discounted rate of 7.25% continued to be in force even as on today.

In the light of the undertaking furnished by the petitioner before this Court, we consider it appropriate to direct the respondents not to conduct the auction scheduled to be held on 16.05.2016 on condition that the petitioner deposits Rs.20,00,000/- in favour of the 2nd respondent before 15.05.2016, and submits an unconditional letter of undertaking to the 2nd respondent to pay an additional sum of Rs.16,00,000/- within three months thereafter.

With regards the balance tax due, it would suffice if the petitioner is permitted to submit a representation seeking prepayment in terms of the amended Rule 67 of the AP VAT Rules before 15.05.2016. On receipt thereof, the respondents shall consider the same and pass an order in accordance with law. If any tax is found to be due, even after the application is considered, the petitioner shall pay the same within one month from the date of receipt of a copy of the order from the competent authority. It is made clear that failure on the part of the petitioner to abide by its undertaking furnished to this Court would not only enable the respondents to proceed with the auction, but also to initiate proceedings against the petitioner for violation of the said undertaking.

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

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RAMESH RANGANATHAN, J

SURESH KUMAR KAIT, J

Date: 29.04.2016

Note: Issue CC by 02.05.2016
B/o

v v