THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.30389 of 2016

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

Heard Sri S.Vivek Chandra Sekhar, learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes (Andhra Pradesh), and, with their consent, the Writ Petition is disposed of at the stage of admission. The Garnishee Notices dt.25.07.2016 issued by 2nd respondent, calling upon respondents 3 and 4 to pay the tax dues of Rs.12,71,700/-, and the penalty due of Rs.19,77,442/-, from the petitioner to the 2nd respondent, is questioned in this writ petition as being arbitrary and illegal.

Aggrieved by the Assessment Order, the petitioner preferred an appeal to the Appellate Deputy Commissioner who, by his order dt.30.06.2016, dismissed the stay application. A copy thereof was served upon the petitioner on 21.07.2016. Aggrieved thereby, the petitioner preferred a revision to the Additional Commissioner on 29.07.2016. As an order of penalty was passed, consequent upon the Assessment Order, the petitioner preferred an appeal there against to the Appellate Deputy Commissioner who, by his order dt.23.07.2016, rejected the petitioner's application for stay. A copy of the stay rejection order was communicated to the petitioner on 06.08.2016, against which, the petitioner preferred a revision to the Additional Commissioner on 17.08.2016.

The petitioner's grievance in this Writ Petition is that, even before a copy of the order of the Appellate Deputy Commissioner, rejecting stay of the collection of the disputed tax and penalty, was served on the petitioner, the impugned Garnishee Notices were issued to the respondents 3 and 4; and, if said proceedings are not set aside, the revision preferred by the petitioner, against the order of the Appellate Deputy Commissioner rejecting stay, would be rendered illusory .

Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would fairly state that, in as much as the petitioner has preferred a revision, against the order passed by the Appellate Deputy Commissioner rejecting stay of collection of the disputed tax and penalty, the 2nd respondent may not be justified in seeking payment of the amounts due towards tax and penalty, from respondents 3 and 4.

As the petitioner has preferred a revision against the order passed by the Appellate Deputy Commissioner rejecting grant of stay of collection of the disputed tax and penalty, and as the revision is still pending consideration of the Additional Commissioner as on date, the impugned Garnishee Notices, issued to respondents 3 and 4, are set aside. Needless to state that, after a revision order is passed by the Additional Commissioner and is communicated to the petitioner, it is open to the Assessing Authority, if need be, to initiate proceedings afresh for recovery of the tax and penalty due.

The Writ Petition is disposed of accordingly. No costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

RAMESH RANGANATHAN, ACJ

U.DURGA PRASAD RAO, J

Dt: 08.09.2016
Scs/Murthy