THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition Nos.39392, 39413 and 39540 of 2016

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

All these three writ petitions are filed against the order passed by the Additional Commissioner (CT) dated 20.09.2016 dismissing the revision applications preferred by the petitioner against the order passed by the Appellate Deputy Commissioner rejecting their applications for stay. Against the order passed by the assessing authority, for the years 2013-14, 2014-15 and from 01.04.2015 to 30.11.2015, the petitioner carried the matter in appeal to the Appellate Deputy commissioner along with applications seeking stay of collection of the disputed tax. As their applications for grant of stay were dismissed, the petitioner preferred revisions and, on their revision applications being dismissed, they have now invoked the jurisdiction of this Court under Article 226 of the Constitution of India.

The petitioner sells milk under three different categories. The first is called "Natural Pure Fresh Milk"; the second is sold under the name of "Ganga Pasteurised Homogenised Toned Milk"; and the third as "Good Milk - UHT Processed Toned Milk". The dispute in these cases revolves around the second category which the petitioner sells under the name of 'Ganga'. While the petitioner claims that it is pasteurised milk falling within the ambit of Entry 16 of Schedule I to the A.P. Value Added Tax Act, 2005 (for short "the Act'), the assessing authority held that it is UHT milk falling under Entry 58 of Schedule IV to the Act.

While both Sri S.Ravi, learned Senior Counsel appearing on behalf of the petitioner, and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes, would put forth their submissions on whether or not the milk sold under the name "Ganga" is UHT milk, it would be wholly inappropriate for us to examine the rival submissions, as any observations made by us in this order may well have a bearing on the appeals pending before the Appellate Deputy Commissioner.

As the substantive appeals are still pending consideration before the Appellate Deputy Commissioner, we consider it appropriate to direct the respondents, pending disposal of the appeals by the Appellate Deputy Commissioner, not to take any coercive steps for recovery of the disputed tax on condition that the petitioner deposits 25% of the disputed tax, with the assessing authority, within six weeks from today. The petitioner shall be entitled to be given credit for the tax already paid in this regard.

All the three Writ Petitions are, accordingly, 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)

16th November 2016
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition Nos.39392, 39413 and 39540 of 2016

Date: 16.11.2016

JSU