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

Writ Petition No.28081 of 2016

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

This Writ Petition is filed questioning the order passed by the Joint Commissioner, Commercial Taxes, Telangana State, Hyderabad dt.05.01.2016 rejecting the petitioner's application for grant of stay, of collection of the disputed tax, pending disposal of the appeal before the Sales Tax Appellate Tribunal.

The Deputy Commissioner, Commercial Taxes, Hyderabad revised the assessment order passed by the Assessing Authority. Aggrieved thereby, the petitioner preferred an appeal to the Sales Tax Appellate Tribunal. Pending disposal of the appeal by the Tribunal, they sought stay of collection of the disputed tax by way of a revision before the Joint Commissioner, Commercial Taxes, Hyderabad who, by the order under challenge in this Writ Petition, dismissed the said revision.

The dispute in this writ petition revolves mainly around whether the petitioner had filed a revised return on 31.07.2009 as claimed by him, or whether the Deputy Commissioner was justified in his conclusion that no such revised return was filed by the petitioner. While Sri V.Bhaskar Reddy, learned counsel for the petitioner, would place before us a copy of Treasury Challan No.0000233805 dt.31.07.2009 as proof of payment of Rs.425/-, towards the tax payable in terms of the revised return, Sri J.Anil Kumar, learned Special Standing Counsel for Commercial Taxes (Telangana), would point out that the revised return records payment of Rs.425/- on 30.07.2009, and the very fact that the revised return filed on 30.07.2009 should indicate payment of tax of Rs.425/- on the next day i.e, 31.07.2009, justified the conclusion of the Deputy Commissioner that no such revised return was filed.

It would be wholly inappropriate for us to consider the rival submissions in the present proceedings as all these aspects are required to be examined by the Sales Tax Appellate Tribunal in the appeal preferred by the petitioner. Suffice it to direct the respondents herein not to take any coercive steps for recovery of the disputed tax on condition that the petitioner pays 50% thereof within four(4) weeks from today. The petitioner shall be given credit to any amount already paid in this regard.

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

RAMESH RANGANATHAN, ACJ

U.DURGA PRASAD RAO, J

Dt: 06.09.2016
Scs/Murthy