THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

WRIT PETITION NO.22166 OF 2017

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

The proceedings under challenge in this Writ Petition is the order passed by the Additional Commissioner (CT) Legal dated 07.06.2017 granting stay of collection of the disputed tax till disposal of the main appeal by the Andhra Pradesh Value Added Tax Tribunal on condition that the petitioner pays 75% of the total disputed tax before the last date of June, 2017. The petitioners were given credit for the amount already paid by them.

Sri S.Dwarakanath, learned counsel for the petitioner, would submit that it is only on the ground that the assessing authority had not recorded reasons, for granting the petitioner exemption on purchase of goods from other States involved in the execution of the works contract, that the revisional authority had revised the assessment order; the impugned order itself records that the petitioner had sought time to produce the books of accounts; the revisional authority had rejected their request on the ground that the revision would be barred by limitation if an order was not passed; as a substantive appeal is pending, before the VAT Appellate Tribunal, the petitioner can produce the books of accounts before the Tribunal also; and the Additional Commissioner had erred in directing the petitioner to deposit 75% of the disputed tax pending disposal of the appeal.

On the other hand Sri Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes, would submit that, while the revision show cause notice is dated 02.09.2015, the revision order was passed more than seven months thereafter; it is not as if the petitioner was denied an opportunity of being heard or that they were not granted sufficient time to produce their books of accounts; and delay on the part of the appellant to do so cannot be construed as disabling the revisional authority from passing the order, more so when the period of limitation for passing a revision order was due to expire in a couple of days thereafter.

The assessment order relates to the tax period 2010-11 and 2011-12 and the revisional authority had sought to revise the books of accounts for the said tax period 3½ years thereafter. As the substantive appeal is pending before the VAT Tribunal, it may not be appropriate for us to examine whether the revisional authority was justified in not granting the petitioner further time more so as the period of limitation was due to expire a couple of days thereafter. The fact, however, remains that even the revisional authority has recorded in the revisional order that the petitioner's request for grant of time could not be acceded to as the period of limitation would expire shortly. As a substantive appeal is pending adjudication before the VAT Appellate Tribunal, we also see no reason to examine the rival contentions of its merits. We consider it appropriate to modify the order of Additional Commissioner, and to direct the respondents not to take any coercive steps for recovery of the disputed tax on condition that the petitioner deposits 50% of the disputed tax within four weeks from today. The petitioner shall be given credit for the amount 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, ACJ)

(T.RAJANI, J)

17th July 2017
RRB