THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

<u>WRIT PETITION No. 14599 of 2017</u>

<u>ORDER:</u> ***(Per VRS,J)***

The petitioner, who is a dealer under the Andhra Pradesh Value Added Tax Act, 2005, has come up with the above writ petition, challenging the action of the respondents in attaching the Bank account and drawing an amount of Rs.35,48,371/-.

2. Heard Mr. A.K.Jaiswal, learned counsel for the petitioner. Mr. S. Suribabu, learned special standing counsel for Commercial Taxes (AP), takes notice for the respondents.

3. Admittedly, the appeals filed by the petitioner as against the order of assessment as well as against the order of penalty, are now pending before the appellate authority. A stay petition in respect of the assessment was rejected by the Appellate Deputy Commissioner (CT), forcing the petitioner to come up with a writ petition. In the writ petition, stay was granted.

4. But, in the meantime, the respondents attached the Bank account and recovered both the amounts of tax as well as penalty. When the petitioner produced the copy of the order passed by this Court, the tax amount recovered by the respondents was refunded to

the petitioner. But, the penalty amount recovered from the Bank has not been refunded. Hence, the petitioner is before us.

5. Admittedly, a statutory appeal is pending before the concerned appellate authority. A stay petition is also pending before the 3rd respondent. Since the 2nd respondent has realized the amount from the Bank account, we are of the considered view that the 3rd respondent should now dispose of the application for stay, without reference to the said event.

6. Therefore, the Writ Petition is disposed of, to the following effect:

i) The 3rd respondent shall dispose of the stay application on merits and in accordance with law, without reference to the money having already been realized and without holding the stay petition as having become infructuous.

ii) The stay petition shall be disposed of by the 3rd respondent within four (4) weeks.

iii) If the stay petition is allowed either in full or in part, the 2nd respondent shall refund the amount forthwith to the petitioner. In case the stay petition is dismissed, it will be open to the petitioner to come up again as against the said order.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

24th April, 2017
cbs

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN √

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No. 14599 of 2017
(closed)

24th April, 2017

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