THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.7 of 2017

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

The petitioner has invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, to declare the action of the 4th respondent, in issuing Form No.4 notice under Section 25 of the Telangana Value Added Tax Act, 2005 (for short "the Act") and in attaching the petitioner's property i.e plot Nos.123/2 to 4 at Uppal, as illegal and arbitrary.

The petitioner, a dealer registered under the Act, carries on business in the manufacture of pipes and tubes. It claims to have supplied these goods to the 6th respondent from which certain amounts are stated to be due to them. It is their case that the Commercial Tax Authorities are conscious of the fact that certain amounts are due to them from the 6th respondent, as the Commercial Tax Department itself had earlier issued a notice under Section 29 of the Act on 27.08.2016 to the 6th respondent.

Sri D.Hanumantha Rao, learned counsel for the petitioner, would submit that, while the Commercial Tax Department is entitled to proceed and recover the amounts due to the petitioner from the 6th respondent, they are not justified in issuing Form No.4 demand notice dated 03.12.2016, prior to attachment of land, under Section 25 of the Act.

The fact that the petitioner is due certain amounts to the Commercial Tax Department towards tax dues, for the earlier assessment period, is not in dispute. The manner in which the Department should recover the amounts due from the petitioner, and whether it should be through recovery of these amounts from a person who is liable to pay certain amounts to the petitioner, or by attachment and sale of the petitioner's property, are all matters for the concerned authorities, and not for this Court, to decide.

While it is undoubtedly open to the Commercial Tax Department to recover the arrears due from the petitioner, from the 6th respondent also, they are also entitled to proceed, attach and put the petitioner's property to sale. These are not matters which this Court would interfere in proceedings under Article 226 of the Constitution of India.

The Writ Petition, as filed, is wholly misconceived and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

04th January, 2017
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Petition No.7 of 2017

Date: 04.01.2017

JSU