THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

Writ Petition No.39985 of 2017

DATED:04-12-2017

Between:

M/s. Orix Auto Infrastructure Services Ltd.
Hyderabad … Petitioner

And

The Commercial Tax Officer
Jubilee Hills Circle, Hyderabad
and another … Respondents

COUNSEL FOR THE PETITIONER: Mr. A.V.A. Siva Kartikeya, for Mr. J.V. Rao

COUNSEL FOR THE RESPONDENTS: Mr. T. Vinod Kumar, Special Standing Counsel for Commercial Taxes (TS)

THE COURT MADE THE FOLLOWING:

<u>ORDER:</u> *(per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

This writ petition is filed for a mandamus to set aside the proceedings initiated under the Revenue Recovery Act, 1864 (for short, "the Act").

The petitioner suffered an assessment order dt.31.01.2013 whereby Value Added Tax was levied for the period 01.12.2006 to 31.12.2011. Feeling aggrieved by the said order, the petitioner filed an appeal before the Appellate Deputy Commissioner (ADC), who set aside the order on the disputed turnover of Rs.16,63,63,859/- and remanded the matter to the assessing authority. The ADC, however, did not grant the relief for the period from 08.11.2011 to 31.12.2011. Feeling aggrieved thereby, the petitioner filed an appeal before the A.P. Value Added Tax Appellate Tribunal (for short, "the Tribunal"). By its order dt.01.03.2016, the Tribunal dismissed the appeal. Assailing this order, the petitioner has filed TREVC No.58 of 2016 before this Court, which is pending. Meanwhile, respondent No.1 has issued the impugned proceedings under the Act, for recovery of the tax dues which is the subject matter of the TREVC pending before this Court.

During the hearing, it is submitted by the learned counsel for the petitioner, which is not disputed by Mr. T. Vinod Kumar, learned Special Standing Counsel for the Commercial Taxes (TS), that pending the appeal before the Tribunal, his client has made a pre-deposit of 50% of the disputed tax.

As the petitioner has already deposited 50% of the disputed tax and the revision filed by it is pending, we are of the opinion that it would be wholly iniquitous to recover the balance amount pending the revision. Accordingly, the respondents are restrained from recovering the balance tax due from the petitioner till the disposal of TREVC No.58 of 2016. It is however made clear that if any amount is due from the petitioner other than the disputed tax which is the subject matter of the pending revision petition, the respondents are entitled to recover the same from it.

Subject to the above observations and directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.49579 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

T. AMARNATH GOUD, J

04-12-2017

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