

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.42844 of 2017

Date:18.12.2017

Between.

M/s Chakrika Eicher tractors,
Kanigiri, repto by its Proprietor-
Yalla Viswanathareddy and another.

..... Petitioners

And.

State of A.P., repto by its Principal
Secretary, Revenue (CT) Department,
Amaravathi and two others.

.....Respondents

Counsel for the petitioner: Dr. M.V.K.Murthy

For Mr. M.V.J.K.Kumar

Counsel for the respondents: Mr. Shaik Jeelani Basha

Special Standing Counsel for CT (AP)

The Court made the following:

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This is an unusual Writ Petition filed only for the limited purpose of stay of recovery of the disputed tax pending the Revision Petition in Writ Petition No.36807 of 2015.

The brief facts leading to the filing of this Writ Petition are as under:

The petitioner is a dealer registered under the provisions of the Andhra Pradesh Value Added Tax Act, 2005 and also an assessee on the rolls of the Commercial Tax Officer, Markapur Circle, Prakasam District–respondent No.3. Respondent No.3, on audit as well as on authorisation, passed assessment order for the period from 01.4.2013 to 28.02.2014 levying tax of Rs.23,20,347/-. Besides the same, respondent No.3 has also levied penalty, vide his order, dated 31.7.2014. Assailing the assessment and penalty orders, the petitioner filed Writ Petition No.36807 of 2015 before this Court. By order, dated 03.02.2016, this Court has dismissed the said Writ Petition. Against the said order, the petitioner filed SLP (Civil) No.14545 of 2016 before the Supreme Court. The said SLP came to be disposed of by the Supreme Court on 30.6.2016, permitting the petitioner to file an application for review before this Court within four weeks, with the observation that if such application

is filed within the stipulated time, this Court shall decide the same within the parameters of law without dismissing the same at the threshold on the ground of limitation. The Apex Court also directed the respondents not to take coercive steps for a period of six weeks, with liberty to this Court to entertain the application for interim relief.

The petitioner averred that in pursuance of the aforementioned order of the Supreme Court, it has filed Review Petition before this Court on 18.7.2016 and also an application for interim relief. While the said Review Petition and the interlocutory application are pending before this Court, respondent No.3 has issued notice to the petitioner for payment of tax and penalty in dispute and informed it that if the payment is not made, the recovery will be made under the provisions of the Andhra Pradesh Revenue Recovery Act, 1864. The petitioner further averred that it has filed an interlocutory application before the Supreme Court seeking extension of interim relief, granted by it on 30.6.2016, till disposal of the Review Petition by this Court and that the Registry of the Supreme Court has declined to number the Interlocutory Application as, the same would amount to review of the order. The petitioner, has therefore, filed the present Writ Petition.

The law is well settled that a party cannot invoke parallel remedies. When it has already filed a Review Petition and also an application for interim relief, the petitioner cannot file a substantive Writ Petition for the limited purpose of stay of recovery of the disputed amounts pending the same. No reasons whatsoever have been given by the petitioner as to why it is not pursuing the Review Petition and also the said interlocutory application filed for interim relief.

In our opinion, this Writ Petition is wholly misconceived and a sheer abuse of process of the Court. Though an option was given to the learned counsel to withdraw the Writ Petition, he has insisted on disposal of the case on merits.

In the light of the above reasons, the Writ Petition is dismissed with costs of Rs.25,000/- (Rupees Twenty five thousand only) payable to the Chief Justice Relief Fund within four weeks from today.

As a sequel, WPMP.No.53133 of 2017 shall stand dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.S.K.JAISWAL

18th December 2017

DR