THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.41278 of 2017

11.12.2017

Between:

Techtran Polylenses Limited, Medak District

..Petitioner

And

The State of Telangana,
represented by its Secretary,
Commercial Tax Department, Hyderabad and others

..Respondents

Counsel for the petitioner: Mr.S.Ravi, senior counsel
for Mr.Bojja Arjun Reddy

Counsel for the respondents: Mr.T.Vinod Kumar,
senior standing counsel for Commercial Taxes (T.S.)

The Court made the following:

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

Feeling aggrieved by assessment order, dated 31.03.2017, *vide* AAO No.17538, TIN:28200213814/CST/2012-13 of the Commercial Officer, Srinagar Colony Circle, Hyderabad (respondent No.4), the petitioner filed this writ petition.

2. At the hearing, Mr.S.Ravi, learned senior counsel representing Mr.Bojja Arjun Reddy, learned counsel for the petitioner, has not disputed the fact that his client has a remedy of appeal before respondent No.3 and a further appeal before the Value Added Tax (VAT) Appellate Tribunal. In deed, Mr.T.Vinod Kumar, learned senior standing counsel for Commercial Taxes (T.S.) appearing for the respondents, has invited this Court's attention to the letter, dated 11.10.2017, addressed by the petitioner to respondent No.3 requesting him not to take coercive steps in pursuance of the distraint notice and seeking permission to produce the documents in its possession. This letter would show that the petitioner intended to file an appeal and evidently changed its mind and filed the present writ petition. Mr.S.Ravi has submitted that as the distraint notice has already been issued, his client is constrained to file this writ petition. He has urged that if statutory pre-deposit of the disputed tax is waived, his client would avail the remedy of appeal before respondent No.3.

3. The facts of the case would reveal that though the show cause notice was issued as far back as 26.08.2015, the petitioner has not produced 'C' and 'H' *forms* for more than 1 ½ years till the assessment

order was passed on 31.03.2017, as a result of which, tax has been imposed on the entire turnover. However, to give an opportunity to the petitioner to produce 'C' and 'H' *forms*, it is permitted to file appeal before respondent No.3. If the petitioner makes a pre-deposit of 12.5 % of the disputed tax within a period of four weeks from today, respondent No.3 shall entertain and dispose of the appeal on merits. On the petitioner complying with the condition of pre-deposit, respondent No.4 is restrained from proceeding with recovery of the balance disputed tax pending the appeal before respondent No.3.

4. Subject to the above directions, the Writ Petition is disposed of.

5. As a sequel to disposal of the Writ Petition, W.P.M.P.Nos.51219 and 51220 of 2017 filed by the petitioner for interim reliefs stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

T.AMARNATH GOUD, J

11th December, 2017
GHN