THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION No. 19907 of 2018

ORDER: *(per Hon'ble Sri Justice Sanjay Kumar)*

The prayer of the petitioner in this case reads as under:

> "For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue an appropriate order or direction more particularly, one in the nature of Writ of Mandamus declaring the action of the 5th respondent in taking coercive steps for recovery of the balance disputed tax of Rs.5,34,260/- by issuing Notices under Section 29 of the Andhra Pradesh Value Added Tax Act, 2005 to the Respondents 6 and 7 where the Petitioner is having its accounts directing to pay the said amount from the Petitioner's Account when the Appeal relating to the same is pending before the A.P.VAT Appellate Tribunal, Visakhapatnam and the Stay Petition is pending before the 2nd Respondent as illegal, arbitrary, against to the principles of natural justice and contrary to the judgment of this Honourable High Court in Katuri Medical College and Hospital Vs C T O Lalapet Circle and others reported in 2013 57 APSTJ 175 AP and consequently quash the same and direct the 5th Respondent not to take any such coercive steps until orders are passed by the 2nd Respondent on the Stay Petition of the Petitioner and pass such other order or orders as may be deemed fit and proper in the circumstances of the case and in the interests of justice."

It is an admitted fact that aggrieved by the assessment order dated 30.11.2015 passed by the Deputy Commercial Tax Officer-I, Vuyyuru, Krishna District, the petitioner filed an appeal before the Appellate Deputy Commissioner (Commercial Taxes), Vijayawada. Aggrieved by the dismissal of its stay application in the said appeal, the petitioner preferred a revision before the Additional Commissioner (Commercial Taxes) (Legal), Vijayawada. By order dated 18.05.2017, the Additional Commissioner granted stay of collection of the disputed tax till the disposal of the main appeal. The appeal was thereafter dismissed by the Appellate Deputy Commissioner (Commercial Taxes), Vijayawada, *vide* order dated 26.09.2017. Aggrieved thereby, the petitioner filed an appeal before the Andhra Pradesh Value Added Tax Appellate Tribunal, Visakhapatnam, on 22.12.2017, and the same is still pending consideration. Pending disposal of the appeal, the petitioner again sought stay of collection of the disputed tax by filing an application before the Additional Commissioner (Commercial Taxes) (Legal), Vijayawada. The Additional Commissioner issued hearing notice dated 06.06.2018 informing the petitioner that its stay application would be taken up for hearing on 20.06.2018 at 11.00 a.m. While so, the Commercial Tax Officer, Vuyyuru Circle, Krishna District, issued notices dated 24.01.2018 and 30.01.2018 under Section 29 of the A.P. VAT Act, 2005, requiring the Managers of the Corporation Bank, Pamarru, and the State Bank of India, Pamarru, respectively to arrange for payment of the disputed tax due from the petitioner from its accounts. Aggrieved by this coercive measure, the petitioner is before this Court.

In the light of the law laid down by this Court in Katuri Medical College and Hospital v. Commercial Tax Officer[1], recovery of amounts in dispute pending disposal of the stay application would be arbitrary and highhanded.

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[1] (2013) 57 APSTJ 175

For reasons alike as were mentioned in the aforestated judgment and in terms thereof, this writ petition is disposed of directing the respondents not to take any coercive measures against the petitioner pending disposal of its stay application before the Additional Commissioner (Commercial Taxes) (Legal), Vijayawada. The impugned garnishee notices dated 24.01.2018 and 30.01.2018 shall therefore be kept in abeyance till disposal of the said stay application.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE T. AMARNATH GOUD

Date: 15.06.2018
Note: Issue CC by 19.06.2018
B/o
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