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HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO
PRESENT

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 3291 OF 2022

Between:

Mahindra Logistics Limited, Rep. by its Chief Financial Officer, Mr. Yogesh Patel, 6-3-1089/F Level-2, RVR Towers, Raj Bhavan Road, Somajiguda, Hyderabad.

...PETITIONER

AND

1. Deputy Commercial Tax Officer, Maredpally Circle, Begumpet Division, Hyderabad.
2. Appellate Deputy Commissioner (ST), Punjagutta Division, Hyderabad.
3. Assistant Commissioner (CT), Audit, Begumpet Division, Hyderabad.
4. Commissioner of Commercial Taxes, State of Telangana, Hyderabad -500 001.
5. State of Telangana, Rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Secretariat, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction declaring the Order No.1295 dated 29/10/2021 passed by the Respondent No.2 rejecting the appeal filed by the Petitioner against the assessment order dated 07/01/2021 as illegal, arbitrary, unconstitutional, contrary to the provisions of the TVAT Act and set-aside the same and further direct the Respondents to refrain from taking any further proceedings or steps in furtherance of and/ or in implementation of the Order no.1295 dated 29/10/2021 and for recovery of total disputed tax.

<u>IA NO: 1 OF 2022</u>

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of recovery of the disputed tax of Rs.13,98,88,089/-, pending disposal of the Writ Petition, as otherwise the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner: SRI A.V.A. SIVA KARTIKEYA FOR SRI. S. VIVEK CHANDRA SEKHAR

Counsel for the Respondents: SRI K. RAJI REDDY, SENIOR S.C. FOR COMMERCIAL TAX

The Court made the following: ORDER

HONOURABLE SRI JUSTICE UJJAL BHUYAN
And
HONOURABLE SRI JUSTICE SUREPALLI NANDA

WRIT PETITION No.3291 of 2022

ORDER:(Per Hon'ble Sri Justice Ujjal Bhuyan)

Heard Sri A.V.A.Siva Kartikeya, learned counsel representing Sri S.Vivek Chandrasekhar, learned counsel for the petitioner and Mr.K.Raji Reddy, learned Senior Standing Counsel for Commercial Tax, for respondents.

2. Challenge made in this writ petition is to the order dated 29.10.2021 passed by the appellate Deputy Commissioner (Commercial Tax), Punjagutta Division, Hyderabad dismissing the appeal filed by the petitioner against the assessment orders dated 07.01.2021 passed by the Deputy Commercial Tax Officer-I, Maredpally Circle, Hyderabad for the tax periods 2015-16 and 2017-18 (up to June, 2017) under the Telangana Value Added Tax Act, 2005 (briefly, 'the TVAT Act' hereinafter).

3. On 25.01.2022, following order was passed:

> " Mr.K.Raji Reddy, learned Special Standing Counsel for Commercial Tax Department, has stated before this Court that there is an alternative remedy of appeal.
>
> However, as the arguing counsel is down with COVID-19, the hearing of the case is deferred."

4. Learned Standing Counsel submits that under Section 33 of the TVAT Act, an appeal lies to the Telangana Value Added Tax Tribunal. On a query of the Court as to why petitioner has not availed appeal, learned counsel for the petitioner submits that the first appellate authority had overlooked violation of Rule 17-A (d) of the Telangana Value Added Tax Rules, 2005 and on that basis it has dismissed the appeal. Even if petitioner files appeal before the Tribunal, Tribunal will also follow the aforesaid provision. On a further query of the Court, he submits that as on date, petitioner has not challenged the vires of Rule 17-A (d). If that be the position, we see no good ground to entertain the writ petition, when evidently, petitioner has alternative remedy under the statute.

5. Accordingly, writ petition is dismissed. It is open to the petitioner to file appeal before the Tribunal and if such appeal is filed, the same may be considered in accordance with law.

6. Miscellaneous applications, if any, pending in this writ petition shall stand closed.

SD/-MOHD.SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Sri S. Vivek Chandra Sekhar, Advocate [OPUC]
2. One CC to Sri K. Raji Reddy, Senior S.C. for Commercial Tax [OPUC]
3. Two CCs to GP for Commercial Tax, High Court for the State of Telangana at Hyderabad. [OUT]
4. Two CD Copies
5. One Spare Copy

CHR
MMA

HIGH COURT

DATED:11/04/2022

ORDER

W.P.No.3291 of 2022

DISMISSING THE WRIT PETITION
WITHOUT COSTS

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MA
4/7/22