

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

and

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11493 of 2005

Between:

M/s. Southern Agencies,Rajahmundry, rep.by its General Manager, Sri
M.Ramachandra rao,

..... PETITIONER

AND

1. The Addl. Commissioner of Commercial Taxes (Legal), O/O. the

Commissioner of Commercial Taxes, Commercial Taxes

Complex, Nampally, Hyderabad.

2. The Appellate Dy. Commissioner of Commercial Taxes,
Visakhapatnam,

3. The Commercial Tax Officer,
K.V.R.Swamy Road, Rajahmundry.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ order or a direction, preferably one in the nature of a Writ of Mandamus, declaring the action of the 1st respondent in rejecting the stay applications in his CCT's REf No.LV(3) /3541/2004, dated 31.3.2005 (Served on the petitioner on 19.4.2005) for the assessment years 2001-02 and 2002-03 (APGST) as illegal, arbitrary, unconstitutional besides being violative of the provisions of the Act.

Counsel for the Petitioner: MR.A.K.JAISWAL

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the admission stage made the following:

ORDER: (PER HON'BLE SRI JUSTICE V.ESWARAIAH)

Questioning the order dated 31.3.2005 passed by the Additional Commissioner of Commercial Taxes (Legal) in rejecting the application of the petitioner to grant stay of the disputed tax pending appeal before the Sales Tax Appellate Tribunal, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned counsel appearing for respondents.

When the statutory appeal is pending before the Sales Tax Appellate Tribunal, we are of the considered opinion that the liability of the petitioner is yet to be finally adjudicated.

Having regard to the facts and circumstances of the case, the impugned order dated 31.3.2005 is hereby set aside subject to the condition that the petitioner deposits half of the disputed tax. It is made clear that while calculating the disputed tax the amount which was already paid should also be taken into consideration. The first respondent is directed to dispose of the appeal pending before it as expeditiously as possible.

The writ petition is accordingly disposed of with the above directions and observations. No costs.

V.ESWARAIAH,J

K.C. BHANU,J

Date: 24.5.2005

Kvrm/da

To

1. The Addl. Commissioner of Commercial Taxes (Legal), O/O. the
Commissioner of Commercial Taxes, Commercial Taxes
Complex, Nampally, Hyderabad.
2. The Appellate Dy. Commissioner of Commercial Taxes,
Visakhapatnam,
3. The Commercial Tax Officer,
K.V.R.Swamy Road, Rajahmundry.
4. 2 CCs to Spl. G.P. for Taxes, High Court Buildings,
Hyderabad (OUT)
5. 2 CD copies.