

**THE HONOURABLE SRI JUSTICE GODA RAGHURAM**  
**AND**  
**THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN**

**W.P. No.17511 of 2009**

**02-09-2009**

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**BETWEEN:**

M/s Sri Sidi Vinayaka Sales, rep. by its Manager Prakash Kumar

...Petitioner

**vs.**

The Additional Commissioner of Commercial Taxes, Hyderabad and five others.

...Respondents

**THE HONOURABLE SRI JUSTICE GODA RAGHURAM**  
**AND**  
**THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN**

**W.P. 17511 OF 2009**

**ORAL ORDER: (Per RR,J)**

The petitioner has invoked the jurisdiction of this Court aggrieved by the order passed by the 1<sup>st</sup> respondent on 18.07.2009 whereby the petitioner's application, seeking stay of collection of disputed tax pending disposal of the appeal before the 2<sup>nd</sup> respondent, was rejected.

The petitioner is a VAT dealer and is engaged in trading of hardware goods including "net guards" made of plastic. These "net

guards” are fixed on doors and window frames, which the petitioner claims are called “Insect screening nets”. According to the petitioner, these items fall under Entry-105 of Schedule-IV to the A.P. VAT Act,2005 ( for short “the Act”) and are, therefore, liable to be taxed only at 4%. Entry-105 of the IV Schedule to the Act, reads as under:-

“All hardware of base metal or alloys and other hardware items like locks, woven wire nettings, mesh, cloth sieves and chain link of all metals.”

*Prima facie*, Entry 105 of the IV Schedule, as referred to above, not only includes hardware items of base metal or alloys but also non-metal items like cloth sieves, mesh, woven wire nettings etc. The petitioner has an arguable case before the 2<sup>nd</sup> respondent that the goods sold by them fall under Entry-105 of the IV Schedule to the Act.

We consider it appropriate, therefore, to direct the respondents not to take any coercive steps for recovery of the disputed tax pending disposal of the appeal before the 2<sup>nd</sup> respondent subject to the condition that the petitioner pays 50% of the disputed tax within a period of four(4) weeks from today. The amount, if any, already paid in this regard by the petitioner should be given credit to.

The writ petition is disposed of as above. No costs.

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GODA RAGHURAM,J

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RAMESH RANGANATHAN,J

2<sup>nd</sup> SEPTEMBER, 2009.

Note:

Issue CC

As soon as

Possible.

(B/O)

TSNR