

**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**  
**AND**  
**THE HON'BLE SRI JUSTICE K.SURESH REDDY**

**WRIT PETITION No.12178 of 2020**

**ORDER:** *(per Hon'ble Sri Justice A.V.Sesha Sai)*

Heard learned counsel for the petitioner, Sri Vemireddy Bhaskar Reddy, and Sri T.C.D.Sekhar, learned Government Pleader for Commercial Taxes, appearing for the respondents, apart from perusing the entire material available on record.

2. First respondent-Assessing authority passed an assessment order, dated 14.12.2017. Against the said order of assessment, petitioner herein filed a statutory appeal on 10.01.2018 before the second respondent and the second respondent-Appellate Deputy Commissioner (CT), Tirupati, *vide* order, dated 14.08.2018, partly remanded the matter and partly dismissed the appeal. As against the said order, to the extent of partly dismissing the appeal, petitioner herein preferred an appeal before the Tribunal. Pending consideration of the appeal, petitioner herein approached the third respondent seeking stay. The third respondent-Joint Commissioner (CT), Legal, *vide* order, bearing Ref.No.LII(1)/ 95/2018, dated 18.03.2020, dismissed the stay application. Operative portion of the said order reads as under:

*“In light of the above discussion, without expressing any opinion on the merits of the case, it is, prima facie, observed that there are no merits in the stay application filed by the dealer and I see no grounds for according stay on the collection of disputed tax. Hence, the revision petition filed for stay of collection of tax is dismissed for devoid of merits. In the end, the stay petition is dismissed”.*

3. In the above background, petitioner herein has come up before this Court by way of the present Writ Petition under Article 226 of the Constitution of India.

4. It is contended by the learned counsel for the petitioner that the order passed by the third respondent, rejecting the stay application, is highly erroneous, contrary to law and highly unreasonable. In elaboration, it is further contended by the learned counsel that, pending appeal before the second respondent-Appellate Deputy Commissioner, petitioner herein approached this Court and this Court disposed of the said W.P.No.15697 of 2018, by way of an order, dated 30.04.2018, and granted blanket stay pending the appeal. It is further contended by the learned counsel that an amount of Rs.59,27,608/-, which belongs to the petitioner herein and in respect of the same there is an order in his favour, is lying with the Department. It is also his submission that, pending various

proceedings, petitioner herein also has so far paid more than 60% of the amount.

5. On the other hand, it is contended by the learned Government Pleader vehemently that there is absolutely no illegality nor there exists any error in the order passed by the third respondent, as such, petitioner herein is not entitled for any indulgence of this Court under Article 226 of the Constitution of India. It is further submitted by the learned Government Pleader that the amount of Rs.59,27,608/- is the subject matter of revision and the petitioner herein cannot claim the said amount.

6. It is absolutely not in controversy that, pending appeal before the Appellate Deputy Commissioner, petitioner herein approached this Court by way of filing W.P.No.15697 of 2018 and this Court disposed of the said Writ Petition by way of an order, dated 30.04.2018, directing the Appellate Deputy Commissioner to dispose of the appeal within a period of eight weeks from the date of receipt of the copy of the said order. It is not in dispute that this Court also observed that the petitioner herein would be entitled for blanket stay pending disposal of the appeal. It is also not in controversy that there is an order passed by the assessing authority in favour of the petitioner herein for

an amount of Rs.59,27,608/-.

7. Having regard to these above mentioned aspects, this Court deems it appropriate to dispose of the Writ Petition directing the respondents not to take any coercive action against the petitioner herein, pending appeal before the Tribunal, subject to the petitioner paying a sum of Rs.5,00,000/- (rupees five lakhs only) to the respondents within a period of two months from the date of receipt of a copy of this order.

8. Accordingly, Writ Petition is disposed of. There shall be no order as to costs.

9. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

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**A.V.SESHA SAI,J**

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**K.SURESH REDDY, J**

24<sup>th</sup> July, 2020.

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