

(1995) 03 AP CK 0054

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5193 of 1995

Anab-e-Shahi Wines and Distilleries Private Limited

APPELLANT

Vs

Appellate Deputy Commissioner, Secunderabad Division,
Nampally, Hyderabad and Others

RESPONDENT

Date of Decision : 21-03-1995

Acts Referred:

Citation : (1995) 98 STC 386

Hon'ble Judges : K.M. Agarwal, Acting C.J.; S. Parvatha Rao, J

Bench : Division Bench

Advocate : M.V.K. Murthy, for the Appellant; Government Pleader for Commercial Taxes, for the Respondent

Judgement

K.M. Agarwal, Ag.C.J.

1. Heard the learned counsel for the petitioner as also the learned Government Pleader for Commercial Taxes. This writ petition is finally disposed of at the admission stage itself with the consent of the learned counsel for the parties.

2. It appears that the petitioner has preferred an appeal against the order of assessment made by the second respondent along with an application for stay. That appeal and stay application were preferred on February 22, 1995. During the pendency of the appeal and the stay application, the assessing authority has started recovery proceedings by initiating garnishee proceedings. The third and the fourth respondents have accordingly been directed to pay the amounts due from the petitioner to the tax department. Being aggrieved, the petitioner has preferred this writ petition.

3. In so many similar cases, we have held that so long as the interim order is not passed on the stay application by the appellate authority, such coercive methods to recover the amount of tax under the assessment order, which is the subject-matter of the appeal, are not proper. In spite of this, such proceedings are being initiated. Under the circumstances, we have no alternative but to quash the

garnishee proceedings issued against the third and the fourth respondents and to restrain the second respondent from initiating any recovery proceeding against the petitioner pending disposal of its stay application before the appellate authority, i.e., the first respondent. Accordingly this writ petition is hereby finally disposed of.

4. No order as to costs.

5. Writ petition disposed of accordingly.