

(1988) 02 AP CK 0035

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1690 of 1988

Dena Bank

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 25-02-1988

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 17, 17(5)

Citation : (1992) 84 STC 245

Hon'ble Judges : A. Raghuvir, Acting C.J.; P. Kodandaramayya, J

Bench : Division Bench

Advocate : B.K. Seshu, for the Appellant; The Government Pleader for Commercial Taxes, for the Respondent

Judgement

A. Raghuvir, Ag. C.J.

1. The writ petitioner-bank assails in this writ petition the notice dated February 2, 1988 served on them u/s 17 of the Andhra Pradesh General Sales Tax Act, 1957. The bank brought to our notice another order made by the Deputy Commercial Tax Officer, Tandur, on February 3, 1988, by virtue of which the properties of Messrs. Vinedale Distilleries Private Limited were attached. Clause (5) of section 17 of the Act reads thus :

"Where any person to whom a notice under this section is sent proves to the satisfaction of the assessing authority that the sum demanded or any part thereof is not due by him to the dealer, or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority."

Therefore, if the amount is payable by the Vinedale Distilleries, it is open to the bank who has been served the notice u/s 17 of the Act to act as indicated in clause (5) thereof. It is in this context the learned counsel for the bank prayed to release the properties attached under the Revenue Recovery Act on February 3,

1988.

2. It is needless to mention, if the properties are attached, the recourse should be had to the provisions of the Revenue Recovery Act for raising the attachment. If the bank is interested to vacate the attachment, it must take appropriate proceedings before the revenue authority to vacate the attachment.

3. The writ petitioner-bank is, therefore, directed to have recourse to proceedings on the two aspects as indicated above.

4. The writ petition for the aforesaid reason is dismissed. No costs. Advocate's fee Rs. 150.

Writ petition dismissed.