(2000) 10 AP CK 0007

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13145 of 2000

Kvaerner Cementation India Limited — APPELLANT

Vs

Commercial Tax Officer and Others — RESPONDENT

Date of Decision : 18-10-2000

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 17, 17(1)

Citation : (2001) 122 STC 419

Hon'ble Judges : S.R. Nayak, J;S. Ananda Reddy, J

Bench : Division Bench

Advocate : J.V. Rao, for the Appellant; Gopala Krishna Tamada, for Respondent No. 2, P. Srinivasa Reddy and The Special Government Pleader for Taxes for Respondent Nos. 1 and 4, for the Respondent

Final Decision : Allowed

Judgement

S.R. Nayak, J.—In this writ petition, the petitioner-company has sought for a writ of certiorari to quash the impugned garnishee notice dated May 31, 2000 issued by the Commercial Tax Officer, Kurupam Market, Visakhapatnam. We are informed that in pursuance of the interim order of this Court dated August 8, 2000 in W.P.M.P. No. 16721 of 2000 and in pursuance of the further direction issued by us on September 13, 2000, the second respondent paid the outstanding dues to the petitioner-company. The impugned garnishee notice issued u/s 17 of the Andhra Pradesh General Sales Tax Act ("the Act", for brevity), on the face of it, is incompetent having due regard to the clear and unambiguous language employed in Sub-section (1) of Section 17 read with Sub-section (5A) of Section 17 of the Act. Even accepting the contention of the learned Special Government Pleader for Taxes that in the light of Sub-section (5A) of Section 17 of the Act, recovery of outstanding dues could be effected from the petitioner-company is correct, even then, the impugned notice cannot be sustained in law because Sub-section (5A) of Section 17 of the Act provides that outstanding dues could be recovered as arrears of land revenue. It is nobody''s case that such an action is initiated under the provisions of the A.P. Land Revenue Act.

2. For all the above reasons, we allow the writ petition and quash the impugned notice. No costs.

3. That a rule nisi has been made absolute as above.

4. Witness the honourable Mr. M.S. Liberhan, Chief Justice, on this Wednesday the eighteenth day of October, two thousand.

