HON'BLE SRI JUSTICE G.CHANDRAIAH

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HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No. 35505 of 2015

DATE: 30-10-2015

Between:

M/s. Origin Foods Limited .. Petitioner

and

State of Andhra Pradesh

and three others .. Respondents

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<u>O R D E R</u>:- (per Hon'ble Sri Justice G. Chandraiah)

The petitioner – M/s. Origin Foods Limited are registered dealers under the provisions of both A.P.VAT & CST Acts on the rolls of the Commercial Tax Officer, Puttur Circle and doing business in the manufacture of Mango Pulp. While so, the 2nd respondent – Commercial tax Officer passed assessment order dated 29.07.2010 for the assessment year 2009-2010 under Central Sales Tax Act, 1956 and the same was revised by the 3rd respondent – Deputy Commissioner (CT) levying tax of Rs.1,01,00,552/- by order dated 04.07.2014. Challenging the order of the 3rd respondent, the petitioner filed an appeal before the A.P. VAT Appellate Tribunal, Visakhapatnam (for brevity "the Tribunal") and also paid an amount of

Rs.25,25,138/- towards pre-deposit @ 25% of the disputed tax. Pending disposal of the appeal, the petitioner filed an application before the 4th respondent-Additional Commissioner of CT (Legal) seeking stay of collection of balance disputed tax of Rs.75,75,414/-. Now, the petitioner's grievance is that the 4th respondent, without affording them any opportunity to place relevant material and in a hasty manner rejected the application for stay. Hence, the present writ petition is filed to set aside the order of the

4th respondent and grant stay of collection of the balance disputed tax.

Heard the learned counsel for both the parties and perused the material placed on record.

Considering the fact that the petitioner has already paid 25% of the disputed tax towards pre-deposit and in view of the fact that the appeal said to have been preferred by the petitioner before the Tribunal is pending adjudication, we are not inclined to go into merits of the case, but feel that interest of justice would be met if the writ petition is disposed of with the following direction:

> "There shall be stay of collection of the balance disputed tax of Rs.75,75,414/- subject to the condition that the petitioner pays 50% of the total disputed tax, within a period of eight weeks from the date of receipt of a copy of this order, pending disposal of the appeal said to have been preferred by the petitioner before the Tribunal. It is made clear that the amount already paid by the petitioner shall be given credit to for computing 50% of the total demanded tax."

Subject to the above direction, this writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

30.10.2015

CHALLA KODANDA RAM,J

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