

**THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO**

WRIT PETITION No.5476 of 2015

ORDER: (*Per Hon'ble Sri Justice R. Subhash Reddy*)

Heard learned counsel for the petitioner and learned Government Pleader appearing for the respondents.

In this writ petition, the petitioner has questioned the order dated 09.01.2015 in CCT's Ref.No.LIII(2)/154/2014 passed by the 1st respondent-Joint Commissioner (CT)-II, Commercial Taxes, Telangana State, refusing to grant stay of collection of the disputed penalty.

Against the order of the assessing authority imposing penalty of Rs.23,26,822/-, the petitioner preferred an appeal along with stay petition, seeking stay of collection of disputed penalty, before the Appellate Deputy Commissioner (CT), Secunderabad Division, Telangana State. However, pending disposal of the appeal, the Appellate Deputy Commissioner rejected the stay petition. Questioning the same, the petitioner filed stay petition before the 1st respondent, who passed the impugned order rejecting the stay petition. Hence, this writ petition.

In exercise of power under Section 53 or 51 of the APVAT Act, 2005, as the case may be, the assessing

authority imposed penalty against the petitioner on the ground that there was delay of two days in paying the tax. The record shows that though the petitioner raised several grounds in support of his plea, the 1st respondent did not consider the same. Since it is stated that the petitioner has already paid 12.5% of the disputed penalty at the time of filing the appeal before the Appellate Deputy Commissioner, which is pending, and having regard to the allegation that there was delay of only two days in paying the disputed tax, we deem it appropriate to dispose of the writ petition with the direction to the Appellate Deputy Commissioner (CT), Secunderabad Division, to dispose of the appeal preferred by the petitioner within a period of two months from today. Further, the respondents are directed not to take any coercive steps to realise the balance penalty amount payable by the petitioner pending disposal of the appeal by the Appellate Deputy Commissioner.

Subject to the above directions, the Writ Petition is disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

06.03.2015

Note: Despatch copy of this order to the

Appellate Deputy Commissioner (CT),
Secunderabad Division.
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