HON'BLE SRI JUSTICE G.CHANDRAIAH

&

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P. No. 35332 of 2015

DATE: 30-10-2015

Between:

M/s. Emerson Network Power(India) Pvt.Ltd. .. Petitioner

and

The State of Telangana

and three others .. Respondents

<u>O R D E R</u>:- (per Hon’ble Sri Justice Challa Kodanda Ram)

The petitioner filed an appeal before the Appellate Deputy Commissioner against the assessment proceedings dated 01.04.2014 issued by the 3rd respondent – Commercial Tax Officer whereby the petitioner was demanded to pay disputed tax of Rs.14,85,627/- for the assessment period from 2010-2011 to 2012-2013 and the appeal was dismissed on 17.07.2014. Challenging the proceedings of the appellate authority, the petitioner has preferred an appeal before the Telangana VAT Appellate Tribunal (for brevity “the Tribunal”). Pending disposal of the appeal, the petitioner filed an application before the 2nd respondent – Joint Commissioner (CT) Legal, seeking stay of collection of the disputed tax, but the petitioner’s grievance is that the

2nd respondent rejected the stay application vide proceedings dated 02.02.2015. It is also stated that the petitioner paid more than 50% of the disputed tax on various occasions. Hence, the present writ petition is filed seeking to set aside the proceedings dated 02.02.2015 and grant stay of collection of the balance disputed tax.

The learned counsel for the petitioner has submitted that the petitioner has already paid Rs.9,42,813/- (Rs.1,85,703/- on 30.04.2014, Rs.5,57,110/- on 11.12.2014 and Rs.2,00,000/- on 25.05.2015) which is more than 50% of the total disputed tax, and prays to grant stay of collection of the balance disputed tax of Rs.5,42,814/- pending disposal of the appeal.

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

Though various contentions have been raised assailing the assessment proceedings issued by the 3rd respondent, considering the fact that the tax amount itself is in dispute and the appeal said to have been filed by the petitioner before the Tribunal is pending adjudication and in view of the fact that the petitioner has already paid more than 50% of the total disputed tax and the same is not controverted by the learned Government Pleader for Commercial Tax, we are not inclined to go into the details, but deem it appropriate to dispose of the writ petition with the following direction:

> “There shall be stay of collection of the balance disputed tax of Rs.5,42,814/- out of total disputed tax of Rs.14,85,627/- for the assessment period from 2010-2011 to 2012-2013 pending disposal of the appeal said to have been preferred by the petitioner before the Tribunal.”

With 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

bcj