THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

W.P.No.5027 of 2016

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri B.Srinivas, learned counsel for the petitioner, and Sri M.Govind Reddy, learned Special Standing Counsel for Commercial Taxes, and, with their consent, the writ petition is disposed of at the stage of admission.

The petitioner was assessed to tax and, pursuant thereto, penalty was imposed on them at 25% under Section 53(1) of the A.P.Value Added Tax Act, 2005 (for short "the Act"). Aggrieved, both by the assessment order and the order imposing penalty, the petitioner carried the matter in appeal to the Appellate Deputy Commissioner. The appeals, preferred against both the orders, were dismissed, aggrieved by which the petitioner has preferred an appeal to the Sales Tax Appellate Tribunal, in T.A.No.310 of 2015, against the order of penalty.

Sri B.Srinivas, learned counsel for the petitioner, would submit that the petitioner is in the process of preferring an appeal against the order of assessment also, and they still have time to do so. The dispute relates to classification of the goods. While the petitioner claims that the subject goods fall within the ambit of Entry 102(34) of the IV Schedule to the Act, and they have paid tax at 5%, the assessing authority was of the view that the subject goods did not fall within the ambit of the said Entry, and fell within the ambit of Schedule V to the Act liable to tax at 14.5%. As the substantive appeal, against the order of penalty, is pending before the Tribunal, and as the petitioner is said to be in the process of preferring an appeal against the assessment order also, we consider it appropriate to stay the order of penalty, pending disposal of the appeal by the STAT, on condition that the petitioner deposits 50% thereof within eight weeks from today.

The amount, if any, paid in this regard shall be given credit to.

The writ petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 17.02.2016
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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