THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Writ Petition No.44097 of 2016

Order: **(Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)**

Heard Sri S. Dwarakanath, learned counsel for the petitioner and Sri S. Suri Babu, learned Special Standing Counsel for Commercial Taxes and, with their consent, the writ petition is disposed of at the stage of admission. This writ petition is filed questioning the order of the Additional Commissioner (CT), Legal, dated 15.11.2016 directing the petitioner to pay 75% of the total disputed penalty giving them credit for the amount already paid in this regard.

Against the order of assessment, the petitioner preferred an appeal to the Appellate Deputy Commissioner and, on the appeal being rejected, they preferred a second appeal to the A.P. VAT Appellate Tribunal. Their application, seeking stay of collection of the disputed tax pending disposal of the appeal before the Tribunal, was rejected by the Additional Commissioner by his order dated 24.10.2016. Aggrieved thereby they filed W.P. No. 37347 of 2016. In the order in W.P. No.37347 of 2016 dated 2.11.2016, we had recorded the fact that the petitioner had already paid 50% of the disputed tax which was a pre-condition for the second appeal to be entertained by the A.P. VAT Appellate Tribunal; and had directed the respondents not to take any coercive steps for recovery of the balance disputed tax pending disposal of the appeal by the A.P. VAT Appellate Tribunal. As the petitioner had the benefit of stay of collection of the disputed tax, to an extent of 50%, pending disposal of the appeal by the A.P. VAT Appellate Tribunal, they are entitled for a similar relief pending disposal of their appeal by the Tribunal, against the consequential order of penalty.

As the petitioner has already paid 50% of the disputed penalty, which is a pre-condition for the appeal to be entertained by the A.P. VAT Appellate Tribunal, we consider it appropriate to set aside the order passed by the second respondent, and direct the respondents not to take any coercive steps for recovery of the balance disputed penalty till the appeal is disposed of by the A.P. VAT Appellate Tribunal against the consequential order of penalty.

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

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

19th December, 2016

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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

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THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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Date: 19.12.2016

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