

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO
AND
THE HON'BLE SRI JUSTICE M.S.K. JAISWAL**

-
WRIT PETITION No.1189 OF 2016

ORDER: (Per MSR,J)

Heard learned counsel for the petitioner and learned Government Pleader for Commercial Taxes for the respondents.

2. Petitioner has assailed the proceedings CCT's Ref.No.LII(2)/225/2015, dated 02.01.2016, rejecting the application for stay filed by the petitioner pending appeal before the APVAT Appellate Tribunal at Visakhapatnam, questioning an order imposing penalty for delayed payment in VAT.

3. Learned counsel for the petitioner contended that at the time of filing of the first appeal before the Appellate Deputy Commissioner of Commercial Taxes, Kurnool, and the second appeal before the APVAT Appellate Tribunal, Visakhapatnam, the petitioner has in total deposited Rs.11,23,292/-, being 50% of the disputed penalty towards statutory deposits, and even thereafter, the 2nd respondent recovered a further sum of Rs.4,73,000/- from the Bank account of the petitioner. He also contended that thus the petitioner had already paid Rs.15,96,392/- out of the disputed penalty of Rs.22,46,584/- leaving only a balance of Rs.6,50,292/-. He also relied upon the order

dt. 28.04.2014 in W.P.MP.No.16903 of 2014 in W.P.No.13531 of 2014, where, in similar circumstances, this Court has granted stay of recovery subject to the condition of the petitioner depositing 1/4th of the demanded amount. He further relied upon another order dt. 30.06.2014 in W.P.MP.No.15607 of 2014 in W.P.No.12429 of 2014.

4. Learned Government Pleader for Commercial Taxes, appearing for the respondents, did not dispute the fact that the petitioner has paid Rs.15,96,392/- out of the disputed penalty amount of Rs.22,46,584/-.

5. Having regard to this circumstance and also the earlier orders passed by this Court, we are of the opinion that the Writ Petition deserves to be allowed and it is accordingly allowed and the impugned order is set aside. There shall be stay of collection of balance disputed penalty of Rs.6,50,292/- for the tax period from August, 2012 to March, 2014 pending disposal of A.R.No.214 of 2015 before the APVAT Appellate Tribunal, Visakhapatnam.

6. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No order as to costs.

M.S. RAMACHANDRA RAO,
J

M.S.K. JAISWAL, J

January 12, 2016

Note: Issue C.C. by tomorrow.
B/o.MD/SJ

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