IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

MAH. VALUE ADDED TAX APPEAL NO.19 OF 2017
IN
VAT APPEAL NO.418 OF 2016 DATED 5/10/2016

M/s. Satyam Enterprise ..Appellant
Vs.
The State of Maharashtra and Ors. ..Respondents

Mr. C. B. Thakar for the Petitioner.
Mr. Amar Mishra, AGP for the Respondent/State.

CORAM: S.V. GANGAPURWALA &
G. S. KULKARNI, JJ.

JUNE 13, 2017.

P.C.

. The Appellant had filed First Appeal before the Deputy Commissioner of Sales Tax. The prayer was made for grant of stay against the recovery till disposal of the Appeal. The First Appellate Authority passed part payment order on 15/6/2016. The Appellant not being satisfied by the said order preferred Appeal. The Tribunal reduced the part payment and fixed liability for payment at 80% of the basis tax liability i.e. Rs.4 Lakhs. The Tribunal directed the Appellant to pay the said amount by 5/12/2016.

2. Aggrieved thereby the Appellant has filed the present appeal.

3. The learned counsel for the Appellant strenuously contends that the Appellant had brought to the notice of the Tribunal the order passed in case of another assessment wherein stay was granted on part payment of 10% of the basic tax liability. However, in the case of the present Appeal a different yardstick has been laid down and the Appellant is directed to deposit 80% of the basic tax liability. The same is an improper discretion by the Tribunal and there is discrimination in the order passed.

4. We have heard the learned counsel for the Respondent also. To direct part payment for grant of stay is the discretion of the Authority. The discretion has to be exercised keeping in view the merits of the case. Stay was granted on deposit 10% in one matter would not necessarily mean that in other cases also the same yardstick has to be applied.

5. The discretion being exercised in the plausible manner would not raise a substantial question of law. In the light of above, no case for interference is made out. As such the Appeal is dismissed.

6. At this stage the learned counsel for the Appellant seeks extension of time to deposit the amount as directed by the Tribunal. We grant 6 weeks time from the date of this order to the Appellant to deposit the sum as directed by the Tribunal under the impugned order. Appeal is accordingly disposed of.

(G. S. KULKARNI, J.) **(S.V. GANGAPURWALA,J.)**