

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON' BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.5059 of 2017

ORDER: (*per Hon'ble Sri Justice V. Ramasubramanian*)

Aggrieved by an order of attachment passed by the Assessing Officer, the assessee, whose statutory appeal is pending before CIT Appeals, has come up with the present writ petition.

2. Heard Sri S. Suri Babu, learned counsel for the petitioner. Sri B. Narasimha Sarma, learned special standing counsel takes notice for the respondent Nos.1 and 2.

3. The grievance of the petitioner is that it is only after a notice of attachment under Section 226(3) was served on him that he came to know about order of assessment. The order of assessment was obviously passed on the ground that despite service of notice, the petitioner did not file a reply.

4. Be that as it may, the petitioner has filed a statutory appeal and it is pending. When an appeal is pending before the CIT Appeals, the assessee is entitled to move an application for stay before the ITO under Section 220(6). The same has not been done by the petitioner.

5. Therefore, the writ petition is disposed of to the following effect:

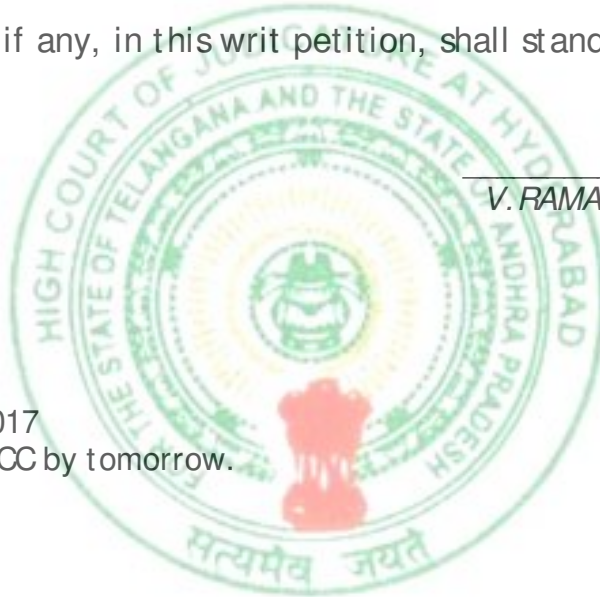
1. The petitioner shall within 15 days of receipt of a copy of this order, move the concerned ITO for stay under Section 220(6);

2. Upon an application for stay being moved, the ITO shall decide the question after adequate opportunity;

3. If the petitioner files an application for stay within two weeks, the order of attachment impugned in this writ petition, shall stand suspended until disposal of the stay application by the ITO; and

4. If the ITO passes any order adverse to the interest of the petitioner, it will be open to the petitioner to take recourse to the remedies available in law.

There shall be no order as to costs. Pending miscellaneous applications, if any, in this writ petition, shall stand closed.



V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 14.02.2017

Note: Furnish OC by tomorrow.

(BO)

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URGENT
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(per Hon'ble Sri Justice V. Ramasubramanian)



Date: 14.02.2017

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