

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.29510 of 2017

Order: (per V.Ramasubramanian, J.)

The petitioner, who is a dealer under the Andhra Pradesh Value Added Tax Act, 2005, has come up with the above writ petition challenging an order passed by the Appellate Deputy Commissioner rejecting their appeal on two grounds viz., (a) that the appeal was not accompanied by a condone delay petition and (b) that the appeal was not accompanied by pre-deposit.

2. Since both the grounds on which the appeal was refused to be entertained, were alleged to be factually incorrect, this Court directed the learned Special Standing Counsel to take notice and get instructions, when the writ petition came up for admission on 19-9-2017.

3. Heard Mr. Karthik Ramana Puttamreddy, learned counsel for the petitioner and Mr. S.Suri Babu, learned Special Standing Counsel for the respondents.

4. Insofar as the first ground is concerned, an application for condonation of delay can be filed even after the presentation of the appeal. Once an appeal is presented, the limitation for filing the appeal will still stop running. Then it is only a question of explaining the delay. While a petition for condonation of delay cannot be filed without an appeal, an appeal can be filed without a petition for condonation of

delay. But such a petition has to be filed at least subsequently. The filing of the petition for condonation of delay before the appeal is numbered, may be sufficient compliance.

5. Insofar as the second ground is concerned, even as per the notice issued by the Department, the petitioner has already paid a sum of Rs.4,38,365/- in the first round of litigation, out of the tax now demanded to the tune of Rs.9,91,433/-. In other words, the amount already paid represents nearly 45% of the tax demanded. Hence, there is sufficient compliance with the pre-deposit condition. Therefore, the writ petition is allowed and the impugned order is set aside. The petitioner shall file an application for condonation of delay in filing the appeal. The application shall be taken up along with the appeal which shall be posted for re-admission and the Appellate Authority shall dispose of the same in accordance with law. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

ABHINAND KUMAR SHAVILI, J.

21st September, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.29510 of 2017
(per VRS, J.)



21st September, 2017.
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