

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

WRIT PETITION No.28288 of 2017

ORDER: (*Per VRS,J*)

Aggrieved by the dismissal of a stay petition, during the pendency of a regular first appeal, the petitioner has come up with the above writ petition.

2. Heard Mr. A. V. A. Siva Kartikeya, learned counsel for the petitioner. Mr. S. Suribabu, learned special standing counsel for Commercial Tax Department (AP), takes notice for the respondents.

3. The petitioner has already paid 12.5% of the disputed tax, as a pre-deposit for maintaining the first appeal. Therefore, by directing the petitioner to pay 1/3rd of the disputed tax, they can be granted stay. Even if the first appeal is dismissed, the petitioner will be entitled to a second appeal, upon payment of a total of 50% of the disputed tax. Therefore, the rejection of the stay petition in toto, is not in order.

4. Hence, the Writ Petition is allowed, the impugned order is set aside, and there will be an interim stay of collection of the balance of disputed tax, subject to the condition that the petitioner pays 1/3rd of the disputed tax, within a period of six (6) weeks from the date of receipt of a copy of this order. The amount already paid shall be adjusted as against the payment to be made.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

T. RAJANI, J.

28th August, 2017
cbs





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Writ Petition No.28288 of 2017
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