IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

And

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

<u>Writ Petition No.35411 of 2017</u>

Between:

M/s. ABB India Limited, represented by its Branch Manager Mr. Pabba Rajendra Prasad, Land B, Block-B, APIIC Industrial Park, Autonagar, Gajuwaka, Visakhapatnam

… Petitioner

Vs.

The Commercial Tax Officer, Gajuwaka Circle, Visakhapatnam and 3 others

.. Respondents

For Petitioner : Mr. S. Dwarakanath

For Respondents : Mr. Sk. Jeelani Basha, Spl. Standing Counsel

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

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ORDER: ***(V. Ramasubramanian, J)***

The petitioner has come up with the above writ petition challenging the action of the respondents 2 and 3 in granting stay pending disposal of the first appeal, but imposing certain conditions.

2. Heard Mr. S. Dwarakanath, learned counsel for the petitioner and Mr. Shaik Jeelani Basha, learned special standing counsel for the Commercial Tax (A.P.).

3. As against an order of assessment dated 14-02-2017, the petitioner filed a statutory appeal before the 2nd respondent. The petitioner also sought stay of recovery of the disputed tax.

4. On 26-04-2017, the 2nd respondent granted stay of recovery of disputed tax on only one component of the entire disputed amount. But the application for stay in respect of the remaining amount was rejected.

5. As against the said order of the 2nd respondent, the petitioner filed a revision before the 3rd respondent. The 3rd respondent, by the order impugned in the writ petition, granted stay in so far as 50% of the statutory forms filed by the petitioner at the time of hearing and that too only till 31-01-2018. In respect of the balance amount, the stay application was dismissed. Therefore, the petitioner is before this Court.

6. At the time of filing of the first appeal, the petitioner has paid a sum of Rs.3,67,106/-, out of the disputed tax of Rs.29,36,849/-. The 2nd respondent granted relief in so far as the disputed tax to the extent of Rs.6,63,353/-. The 3rd respondent granted further relief for a limited amount for a limited period of time. Therefore, the demand is now reduced to Rs.18,00,747/-, on account of the order of the 3rd respondent.

7. Taking into account the cumulative effect of whatever transpired, we are of the considered view that if the petitioner is permitted to deposit of Rs.6,00,000/- in addition to the pre-deposit already made, the petitioner can have the benefit of stay.

Therefore, the writ petition is disposed of modifying the order of the 3rd respondent and granting an interim stay in favour of the petitioner pending disposal of the first appeal before the 2nd respondent, on condition that the petitioner deposits a sum of Rs.6,00,000/- with the 1st respondent, within a period of four (4) weeks from the date of receipt of a copy of this order, in addition to the pre-deposit condition already complied with.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

Date: 25-10-2017

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