HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.7735 OF 2018

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Heard Sri S. Krishna Murthy, Learned Counsel for the petitioner and Sri Shaik Jeelani Basha, Learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

The proceedings under challenge in this Writ Petition is the order dated 12.02.2018 passed by the Additional Commissioner (CT) Legal, rejecting the petitioner's application for grant of stay pending disposal of the appeal by the A.P. VAT Appellate Tribunal. The petitioner herein was assessed to tax, for the tax period January, 2014 to January, 2016 under the A.P. VAT Act, on transfer of the right to use Set Top Boxes . Aggrieved by the assessment order, the petitioner carried the matter in appeal to the Appellate Deputy Commissioner who, by his order dated 27.06.2017, dismissed the appeal. Aggrieved thereby the petitioner carried the matter in further appeal to the A.P. VAT Tribunal depositing 50% of the disputed tax which is a pre-condition for a Second Appeal to be entertained by the A.P. VAT Tribunal. They filed an application, before the Additional Commissioner, seeking stay of collection of the balanced disputed tax pending disposal of the appeal by the A.P. VAT Tribunal.

Sri S. Krishna Murthy, Learned Counsel for the petitioner, would submit, rightly so, that in similar Writ Petitions, where an identical question regarding levy of tax on the transfer of the right to use Set Top Boxes came up for consideration, this Court had granted stay of collection of the disputed tax on payment of 25% thereof; and in as much as the petitioner has already deposited 50% of the disputed tax as a precondition for their appeal to be entertained by the A.P. VAT Tribunal, the Additional Commissioner erred in rejecting their application for grant of stay of the balance 50% of the disputed tax. While fairly stating that, in similar Writ Petitions, interim stay was gratned on condition that 25%, of the disputed tax is deposited, Sri Shaik Jeelani Basha, Learned Special Standing Counsel, would justify the order of the revisional authority.

As it is not in dispute that this Court, while entertaining W.P. No.13147 of 2016, had granted stay on condition that the petitioner deposited 25% of the disputed tax; and in as much as, in the present case, the petitioner has already deposited 50% of the disputed tax, we set aside the order passed by the revisinal authority, and direct the respondents not to take any coercive steps to recover the balance 50% of the disputed tax from the petitioner, till the appeal filed by them is finally disposed of by the A.P. VAT Tribunal.

The Writ Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

Date: 16.03.2018

MRKR