THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.9184 of 2018

ORDER: (per SK,J)

The petitioner assails the action of the Additional Commissioner (Commercial Taxes), office of the Commissioner of Commercial Taxes, Vijayawada, Andhra Pradesh, the first respondent, in rejecting his revision seeking stay of collection of the disputed penalty of Rs.15,13,691/- imposed by the Commercial Tax Officer, Tirupathi-I Circle, Chittoor District, Andhra Pradesh (CTO), *vide* order dated 14.02.2018. This penalty was imposed by the CTO in relation to the tax period from December, 2015 to January, 2016. Aggrieved thereby, the petitioner already preferred an appeal before the Appellate Deputy Commissioner (Commercial Taxes), Tirupathi Division, Andhra Pradesh, the second respondent, and the same is pending consideration. However, pending the disposal of the appeal, the petitioner sought stay of collection of the penalty amount which was the subject matter of the appeal. The same was disallowed by the first respondent by way of the order under challenge.

By interim order dated 23.03.2018, this Court took note of the fact that the petitioner had already paid 12.5% of the disputed penalty amount at the time of filing the statutory appeal before the second respondent and accordingly granted interim stay of collection of the disputed penalty amount in its totality.

We are informed that the appeal before the second respondent is still pending disposal.

In that view of the matter, as the appellate authority would have to decide upon the correctness of the imposition of the penalty amount upon the petitioner by the CTO and as the petitioner has already deposited 12.5% of the said disputed penalty amount, the authorities cannot be permitted to collect the entire penalty amount during the pendency of the appeal.

The writ petition is accordingly allowed setting aside the order dated 14.02.2018 passed by the first respondent rejecting the petitioner's request for stay of collection of the disputed penalty amount in its entirety. The respondent shall not collect the penalty amount in its entirety till disposal of the appeal pending before the Appellate Deputy Commissioner (Commercial Taxes), Tirupathi Division, Andhra Pradesh.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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T.AMARNATH GOUD,J

Date:06.06.2018

GJ