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

Writ Petition Nos.9410 and 9469 of 2018

Common Order: (per V.Ramasubramanian, J.)

Aggrieved by the dismissal of their stay petitions, one relating to disputed tax and another relating to penalty, the dealer under the Telangana Value Added Tax Act, 2005, has come up with the above writ petitions.

2. Heard Mr. Bhaskar Reddy Vemireddy, learned counsel for the petitioners. Mr. T.Vinod Kumar, Special Standing Counsel, takes notice for the respondents.

3. In pursuance of an audit, the assessment for the period 01-4-2010 to 31-3-2011 was completed by order dated 31-3-2015. The assessment resulted in a demand of Rs.37,36,011/- in addition to the forfeiture of a sum of Rs.1,38,98,785/-. By an order dated 27-10-2015, penalty to the tune of Rs.9,34,003/- was also levied under Section 53(2).

4. Challenging the assessment as well as the penalty, the petitioner filed separate appeals. But the appeals were dismissed on 27-4-2017. Therefore, the petitioner filed second appeals before the VAT Tribunal and they also deposited 50% of the disputed tax. The appeals are pending before the Tribunal.

5. In the meantime, the petitioner sought interim stay of recovery of the balance. But the stay petition was dismissed

forcing the petitioner to come up with the above writ petitions.

6. The main grievance of the petitioners is that without considering any of the grounds raised by them, the impugned order rejecting the prayer for stay has been passed. According to the petitioners, the order is a laconic order without holding out any valid reasons.

7. Admittedly, the second appeals filed by the petitioner against the tax as well as penalty are now pending before the VAT Tribunal. There is no dispute about the fact that 50% of the disputed tax has already been collected. Though the petitioner claims that there is also a refund claim now pending, the same appears to relate to Central Sales Tax, which cannot be appropriated against the demand for VAT.

8. In any case, the petitioner has paid a sum of Rs.2,00,000/- on 14-3-2018 in addition to 50% of the disputes tax already deposited, cumulatively at the time of filing the first appeal and the second appeal. Therefore, while the interests of the revenue have to be safeguarded, the industry cannot also be choked.

9. Therefore, both the writ petitions are disposed of, granting interim stay of collection of balance amount, subject to the condition that the petitioner shall pay an amount equivalent to 15% of the disputed tax, in addition to the amounts already paid, within a period of 4 (four) weeks. Upon such payment being made, the petitioner will have the

benefit of stay of recovery of the balance of disputed tax as well as the penalty. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

ABHINAND KUMAR SHAVILI, J.

23rd March, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition Nos.9410 and 9469 of 2018
(per VRS, J.)

23rd March, 2018.
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