THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.9916 OF 2018

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner company in this case reads as under:

> "For the reasons stated in the accompanying affidavit, it is prayed that the Hon'ble Court may be pleased to issue Writ of Mandamus or any other appropriate writ or order or direction declaring the action of the 1st respondent in dismissing the stay application without considering any contentions of the petitioner vide proceedings, dated 13.03.2018 in CCT's Ref.No.LIII(1)/82/2017 (JC Order No.45/2018) for the tax period 2009-10 under the Central Sales Tax, 1956 as arbitrary, contrary to law and the same is in violation of principles of natural justice and Rule of Law and consequently set aside the stay rejection proceedings of the 1st respondent dated 13.3.2018, and grant stay of collection of balance disputed tax of Rs.4,49,485/- pending disposal of the appeal before Hon'ble Tribunal in T.A.No.143/2016 and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstance of the case."

Ms. Shaik Vaheeda Sushma, learned counsel for the petitioner company, would contend that as the petitioner company's appeal in T.A.No.143 of 2016 is pending consideration before the Telangana Value Added Tax Appellate Tribunal, Hyderabad, the Additional Commissioner (ST), Office of the Commissioner of State Tax, Telangana, ought to have been mindful of the fact that the issue is yet to attain finality and ought not to have denied interim relief to the petitioner company. She would point out that at the time of filing of the appeal, 25% of the disputed tax was already deposited and therefore requiring the petitioner company to pay the entire amount of disputed tax notwithstanding the pendency of the appeal was unwarranted.

Heard Sri Vinod Kumar Tadakamalla, learned standing counsel for Commercial Taxes, State of Telangana.

As the appeal of the petitioner company is still pending, it would be premature at this stage for the Commercial Tax authorities to require the petitioner company to pay the entire disputed tax.

We are therefore of the opinion that the interest of justice would be sufficiently served by directing the petitioner company to pay another 25% of the disputed tax amount of Rs.5,99,315/-. This amount shall be deposited within four weeks from today. Subject to this condition, there shall be interim stay of further coercive measures against the petitioner company in relation to the disputed tax, which is the subject matter of T.A.No.143 of 2016 pending on the file of the Appellate Tribunal.

The writ petition is allowed to the extent indicated above.

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

SANJAY KUMAR,J

M.GANGA RAO, J

Date: 28.03.2018
IBL