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 MS.JUSTICE J. UMA DEVI

WRIT PETITION No.10039 OF 2018

Between:

M/s.Chandrakanth and Co.,
15-4-44, Gowliguda Chaman,
Hyderabad, Telangana – 500 012,
Rep. by its Proprietor Mr.Chandrakanth Nanalal

...Petitioner

Vs.

Additional Commissioner (ST) Legal,
Office of the Commissioner of Commercial
Taxes, Nampally, Hyderabad and others

... Respondents

For Petitioner	:	Sri A.K. Jaiswal
For Respondents	:	G.P. for Commercial Tax (TG) and Mr. T.Vinod Kumar, Special Standing Counsel for the Commercial Tax.
Gist	:	
Head Note	:	
Cases Referred	:	Nil

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

WRIT PETITION No.10039 OF 2018

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

Aggrieved by the dismissal of a petition for stay pending a first appeal, the Dealer under the Telangana Value Added Tax Act, 2005, has come up with the above writ petition.

2. Heard Mr.A.K. Jaiswal, learned counsel for the petitioner. Mr.T.Vinod Kumar, learned Special Standing Counsel takes notice for the respondents.

3. The petitioner has admittedly filed a first appeal, after paying 12.5% of the disputed tax. The dispute between the petitioner and the respondents relates to the classification of the goods. According to the respondents there is a specific entry covering the goods dealt with by the petitioner.

4. However, the fact remains that a first appeal is pending. Even if the first appeal is dismissed, the petitioner has a right of second appeal. If the petitioner had to exercise the right of second appeal, he may be called upon to pay 37.5% of the disputed tax in addition to the 12.5% which he has already paid at the time of fling of the first appeal. Therefore, we are of the considered view that a limited stay can be granted on condition.

5. Therefore, the writ petition is allowed setting aside the impugned order and granting an interim stay pending disposal of the first appeal, subject to the condition that the petitioner deposits 37.5% of the disputed tax, within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 02, 2018

KTL