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

WRIT PETITION No.10225 of 2018

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

The petitioner Trust filed this writ petition with the following prayer:

> "In the above circumstances, it is prayed that the Hon'ble Court may be pleased to issue an order or direction especially one in the nature of writ of mandamus holding that the Respondent's orders in F.No.AABTN3063B/ITO-2/2017-18, dated 21.03.2018, passed for asst. years 2010-11, 2011-12, 2014-15 and 2015-16 directing the Petitioner to pay 20% of disputed taxes of Rs.82,61,300, Rs.30,19,700, Rs.6,81,510 and Rs.28,21,545, for the assessment years 2010-11, 2011-12, 2014-15 and 2015-16, respectively, in two equal monthly installments commencing from the month of March 2018 (first installment payable on or before 30.03.2018), as being illegal, arbitrary, burdensome and unsustainable in law, and consequently direct the Respondent not to insist upon payment of disputed taxes quantified as payable for a sum of Rs.82,61,300, Rs.30,19,700, Rs.6,81,510 and Rs.28,21,545 for asst. years 2010-11, 2011-12, 2014-15 and 2015-16, respectively, pending disposal of first appeal by the 1st appellate authority, and pass such other order(s) as the Hon'ble deems fit and proper in the interest of justice."

By order dated 28.03.2018, this Court granted interim stay of collection of the disputed taxes. This order reads as under:

> "Sri K.Vasantkumar, learned counsel for the petitioner, would state that though the Supreme Court's order relied upon was brought to the notice of the I.T.O. (Exemptions)-2, Hyderabad, the respondent, but she did not even refer to it in the order and concluded that as the petitioner has no financial

> difficulty, stay should be granted subject to payment of 20% of the disputed amount.
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> There shall, accordingly, be interim stay, as prayed for."

Though the Income Tax Officer (Exemptions)-2, Hyderabad, the respondent, filed a counter-affidavit adverting to the merits of the matter, it has to be kept in mind that the appeal preferred by the petitioner Trust is still pending consideration before the Commissioner of Income Tax (Appeals), Hyderabad-9. In that view of the matter, it would be wholly inappropriate for this Court to venture into the merits of the case or make any observations in relation thereto.

The writ petition is accordingly disposed of continuing the interim order dated 28.03.2018 passed in this writ petition pending the disposal of the appeal by the Commissioner of Income Tax (Appeals), Hyderabad-9, on its own merits and in accordance with law.

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

Dt: 26.07.2018.
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