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

WRIT PETITION Nos.18390, 18402 and 18414 of 2018

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

The Union of India filed these writ petitions aggrieved by the individual orders dated 30.10.2017 passed by the Additional Commissioner (Sales Tax), Office of the Commissioner of State Tax, State of Telangana, in relation to the Assessment Years 2010-11, 2011-12 and 2012-13 (Central Sales Tax), refusing to grant stay of collection of disputed tax pending disposal of the appeals filed by it before the Telangana Value Added Tax Appellate Tribunal, Hyderabad.

The issue pertains to stock transfers effected by the Nuclear Fuel Complex to the constituent units of the Department of Atomic Energy, which have been treated as interstate sales for the purpose of levy of tax by the Assistant Commissioner (Commercial Taxes), LTU, Saroornagar Division, Hyderabad, under separate Assessment Orders for each of the Assessment Years in question. Aggrieved by the said Assessment Orders, the Union of India preferred statutory appeals before the Appellate Deputy Commissioner (Commercial Taxes), Hyderabad Rural Division, Hyderabad. The said appeals were dismissed on the ground of non-filing of 'F' forms by the Nuclear Fuel Complex. Aggrieved thereby, the Union of India preferred appeals before the Telangana Value Added Tax Appellate Tribunal, Hyderabad, which are under consideration. Pending disposal of the appeals, the Union of India sought stay of the orders under appeal which came to be rejected by the orders presently under challenge.

It is an admitted fact that the Union of India already deposited 50% of the disputed tax as on date as it paid the same for the purpose of maintaining the appeals. In such circumstances, when the issue raised by the Union of India is yet to be decided by the Tribunal, it is wholly unjust on the part of the authorities to refuse to grant stay pending disposal of such appeals. All the more so, when 50% of the disputed tax has already been deposited.

The writ petitions are accordingly allowed setting aside the orders under challenge. The orders passed by the Assessing Authority as well as the Appellate Deputy Commissioner (Commercial Taxes), Hyderabad Rural Division, Hyderabad, which are the subject matter of the pending appeals before the Telangana Value Added Tax Appellate Tribunal, Hyderabad, shall remain stayed pending disposal of such appeals.

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: 06.06.2018.
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