THE HON'BLE SRI JUSTICE SANJAY KUMAR
and
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION No.22295 of 2018

ORDER: (per SK, J)

Challenge in this Writ Petition is to the order dated 04.05.2018 passed by the Additional Commissioner (Commercial Taxes), Legal, Office of the Commissioner of Commercial Taxes, Andhra Pradesh, rejecting the stay application filed by the petitioner pending disposal of its appeal before the APVAT Appellate Tribunal at Visakhapatnam.

Perusal of the order under challenge reflects that the Additional Commissioner virtually dealt with the merits of the matter and opined that there were no reasons to interfere with collection of the disputed tax. When the substantial appeal filed by the petitioner was pending consideration before the jurisdictional Tribunal, it was not for the Additional Commissioner to foreclose the same by offering his own opinion on the merits of the matter. At best, he could have examined the *prima facie* case made out by the petitioner in the context of the interest of the Revenue and no more. It is not in dispute that for the purpose of maintaining the appeal before the jurisdictional Tribunal, the petitioner would have already deposited 50% of the disputed tax amount.

That being so, we hold that the Additional Commissioner could not deny the relief of stay pending disposal of the appeal in relation to the balance 50% of the disputed tax amount.

The writ petition is accordingly allowed setting aside the order dated 04.05.2018 passed by the Additional Commissioner (Commercial Taxes), Legal, Office of the Commissioner of Commercial Taxes, Andhra Pradesh. The Commercial Tax authorities shall not insist upon payment of the balance 50% of the disputed tax amount pending disposal of the petitioner's appeal before the jurisdictional Tribunal.

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

SANJAY KUMAR, J

2nd JULY, 2018.

T. AMARNATH GOUD, J

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