HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No. 1232 of 2019

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

1) Questioning the dismissal of a stay petition during the pendency of a second appeal before the VAT Appellate Tribunal, the dealer has come up with the above writ petition.

2) Heard Ms.Vaheeda Sushma, learned counsel for the petitioner. Mr.T.Vinod Kumar, learned Special Standing Counsel takes notice. Admittedly the petitioner has already paid 50% of the disputed tax, partly at the time of filing of first appeal and partly at the time of filing of second appeal. Therefore, the out right rejection of the stay petition, may not be correct.

3) The issue involved in the appeal is with respect to a mismatch of the turn over and the eligibility for I.T.C. Therefore, the petitioner deserves stay. Hence, the Writ Petition is allowed, the impugned order is *set aside.* The petitioner will have the benefit of stay pending disposal of the appeal before the VAT Appellate Tribunal.

As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

January 24, 2019
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