HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No. 1437 OF 2019

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

Aggrieved by the stringent condition imposed by the Additional Commissioner (State Tax), for grant of stay pending disposal of an appeal before the VAT Appellate Tribunal, Hyderabad, Telangana State, the dealer has come up with the above Writ Petition.

2. Heard Sri S. Dwarakanath, learned counsel for the petitioner. Sri T. Vinod Kumar, learned Special Standing Counsel for the Department, takes notice.

3. Admittedly, what is pending before the Tribunal is a second appeal. In fact, the petitioner came up with a writ petition, but this Court directed the petitioner to go before the Tribunal. As a condition precedent for entertainment of the appeal, the petitioner has already paid 50% of the disputed payment, partly at the time of filing the first appeal and partly at the time of filing the second appeal.

4. Therefore, the imposition of an additional condition to pay 70% of the disputed tax, is not in order. More over, the Additional Commissioner appears to have fallen into an error in thinking that what is pending is a first appeal.

5. Therefore, the Writ Petition is ordered, setting aside the impugned order and granting stay pending disposal of the appeal by the Telangana VAT Appellate Tribunal. However, there shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

January 28, 2019
Gkv/Mgr