THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

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THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION Nos.3768 and 3770 of 2019

COMMON ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

Challenging the manner in which the stay petitions with regard to collection of penalty and with regard to disputed tax were disposed of, the dealer under the Telangana Value Added Tax has come up with the above writ petitions.

2. Heard Mr. G. Narendra Chetty, learned counsel for the petitioner. Mr. J. Anil Kumar, learned special standing counsel, takes notice for respondents.

3. For the tax period 2014-2015 to 2016-2017 (up to October 2016), an order of assessment was passed, followed by an order of penalty also. The petitioner has filed first appeals both against the order of assessment and against the order of penalty and the appeals were partly allowed. Against the disallowed portion, the petitioner filed second appeals before the Telangana VAT Appellate Tribunal by paying 37.5% of the disputed tax.

4. Pending disposal of the second appeals, the petitioner sought stay of collection of demand both with respect to tax and with respect to penalty. The said petitions were disposed of by the orders impugned in the writ petitions, by directing the petitioner to pay another 10% of the disputed tax and penalty over and above what has already been paid. Therefore, the petitioner is before us.

5. It is seen from the material papers that the petitioner has already paid 50% of the disputed tax and 50% of the penalty. The stay sought is only in respect of the remaining amount. As a matter of fact, the petitioner succeeded partly before the first appellate authority.

6. Therefore, taking into account the above, we are of the view that the petitioner deserves to be granted stay of collection of the balance amount, till the disposal of the appeals by the Telangana VAT Appellate Tribunal. Hence, the writ petitions are allowed, the impugned orders are modified and the petitioner is granted stay of collection of the balance amount of tax and balance of penalty, till the disposal of the appeals by the Telangana VAT Appellate Tribunal.

Consequently, the miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

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V. RAMASUBRAMANIAN, J

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Dr. SHAMEEM AKTHER, J

February 25, 2019

Note: Furnish CC of the order by 01.03.2019

(B/o) DSK