

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4437 of 2019

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

1) Challenging the imposition of a condition for grant of stay of collection of the balance of disputed penalty, the dealer under the Telangana Value Added Tax Act, 2005 has come up with the above writ petition.

2) Heard Ms.N.Niyatha, learned counsel for the petitioner. Mr.T.Vinod Kumar, learned Special Standing Counsel takes notice for the respondents.

3) As against the order of penalty passed by the Assessing Officer, the petitioner filed a first appeal. The first appeal was dismissed and the petitioner has now gone to the Telangana VAT Appellate Tribunal by way of second appeal.

4) Pending the second appeal the petitioner moved a stay petition before the Additional Commissioner. By the order dated 20.02.2019, the Additional Commissioner granted stay on condition that the petitioner pays 65% of the disputed penalty. Aggrieved by the condition so imposed, the petitioner is before us.

5) At the outside it should be pointed out that the subject matter relates to penalty. What is pending is a second appeal before the Telangana VAT Appellate Tribunal. At the time of filing of the first

appeal the petitioner has already paid 12.5% of the penalty. At the time of filing of the second appeal the petitioner has paid another amount of 37.5% of the penalty. Thus in all the petitioner has paid 50% of the penalty.

6) Therefore, imposition of the condition appears to be hard. Hence, the Writ Petition is allowed, the impugned order is *set aside* and the petitioner is granted stay of collection of balance of 50% of the penalty, during the pendency of the second appeal before the Telangana VAT Appellate Tribunal.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

March 5, 2019
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Date: 05.03.2019

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