HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.4854, 4855 AND 4857 OF 2019

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

Aggrieved by a condition imposed by the Additional Commissioner (State Tax) for the grant of stay pending an appeal before the VAT Appellate Tribunal, the dealer under the Telangana VAT Act, 2005 has come up with the above writ petitions.

2. Heard Mr. R. Raghavan, learned counsel for the petitioner. Sri T. Vinod Kumar and Mr. J. Anil Kumar, learned Special Standing Counsel, take notice for the respondents.

3. By the order impugned in these writ petitions, the Additional Commissioner (State Tax) has granted stay of collection of 50% of the disputed tax subject to the condition that the petitioner should pay 50% of the disputed tax less the amount already paid by way of pre-condition deposit at the time of filing of the appeal. Contending that the issue raised in these writ petitions is squarely covered by a Government Memo relating to Classification, the petitioner has come up with the above writ petitions claiming that no condition could have been imposed by the respondents for the grant of stay in cases of this nature.

4. We have carefully considered the above. Assuming that the Government Memo covers the case of the petitioner directly, the petitioner would have then passed the first test of *prima facie* case for the grant of stay. But, there are other parameters. This Court is

consistently granting protection in respect of collection of 50% of the disputed tax in all cases, by imposing appropriate conditions depending upon the amount of tax already paid at the time of filing of the first appeal or second appeal. We find no reason to deviate from the same, in view of the other parameters that are supposed to be taken into account.

5. Therefore, the impugned orders do not call for any interference. However, since the time granted by the impugned orders has already expired, we dispose of these writ petitions granting four (04) weeks time for the petitioner to comply with the condition imposed by the impugned orders. If the petitioner pays 50% of the disputed tax less the amount of pre-condition deposit already made, within four (04) weeks, the petitioner will be entitled to protection till the disposal of the appeals by the VAT Appellate Tribunal. The VAT Appellate Tribunal shall endeavour to dispose of the appeals, within a period of three (03) months from the date of receipt of a copy of this order. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the writ petitions shall stand closed.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

March 11, 2019
Mgr