HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5054 of 2019

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

Aggrieved by a condition imposed by the Additional Commissioner (State Tax) for the grant of stay pending disposal of the first appeal before the VAT Appellate Tribunal, the dealer under the Telangana Value Added Tax Act, 2005, has come up with the above Writ Petition.

Heard Mr.S.R.R.Viswanath, learned Counsel for the petitioner. Mr.J.Anil Kumar, learned Special Standing Counsel takes notice for the respondents.

As against a revisional order of assessment passed under Section 33(1)(b), the petitioner has already filed a regular first appeal before the VAT Appellate Tribunal after making a pre-deposit of 25% of the demand. In respect of the balance, the petitioner moved a stay petition, but the Additional Commissioner has imposed a condition, directing the petitioner to make payment of 75% of the demand. Therefore, the petitioner is before us.

According to the petitioner, they have already paid 61% of the disputed tax. The petitioner has already submitted a letter to the said effect before the Additional Commissioner and that letter was taken on record. But overlooking the same, the impugned Order has come to be passed.

In normal circumstances, whenever an appeal is pending before the VAT Appellate Tribunal, either in the form of first appeal or a second appeal, this Court ensures that the dealer had paid 50% of the disputed tax, to enable him to get an order of stay. In this case, the petitioner has paid 61% of the disputed tax. Therefore, the petitioner is entitled to stay pending disposal of the appeal.

In view of the above, the Writ Petition is allowed, the impugned Order is set aside and the petitioner is granted stay of collection of the balance of the disputed tax pending disposal of the appeal before the 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 12, 2019
smr