HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No. 5531 OF 2019

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

1) Aggrieved by the rejection of an application for stay ordered by the Additional Commissioner of State Tax pending disposal of a first appeal before the Appellate Deputy Commissioner, the dealer under the Telangana Value Added Tax Act, has come up with the above writ petition.

2) Heard Mr.A.K.Jaiswal, learned counsel for the petitioner. Mr.J.Anil Kumar, learned Special Standing Counsel takes notice for the respondents.

3) What is pending before the first appellate authority is an appeal arising out of the order of penalty. The petitioner has already paid 12.5% of the demand. Even if the petitioner looses the first appeal, they have an alternative remedy of second appeal to the VAT Appellate Tribunal. At the time of filing of appeal, the petitioner may be required to pay only an additional amount of 37.5% In such circumstances the rejection of the stay petition is not in accordance with law.

4) Therefore, the Writ Petition is allowed *setting aside* the impugned order and granting stay subject to the petitioner

paying 25% of the disputed penalty, within a period of four weeks from the date of receipt of a copy of the order.

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

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

March 18, 2019
gkv

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No. 5531 of 2019

Date: 18.03.2019

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