THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

W.P.No.2100 of 2020

O R D E R :

1. This Writ Petition is filed challenging the order dt.17.12.2019 of the 4th respondent dismissing the stay application filed by the petitioner pending disposal of the appeal TA.No.32 of 2018 before the Telangana VAT Appellate Tribunal challenging the order dt.21.09.2016 of the Appellate Deputy Commissioner(Order No.825).

2. It is not in dispute that the petitioner had paid 12.5% of the disputed tax when the petitioner preferred an appeal before the 5th respondent by way of mandatory deposit.

3. The 5th respondent had rejected the said application on 15.10.2014.

4. Petitioner then filed a Review Application before the 2nd respondent, who also rejected it on 20.02.2015.

5. Petitioner questioned the same in WP.No.6817 of 2015 and this Court on 17.03.2015 directed the respondents not to take any coercive steps for recovery of disputed tax on condition of the petitioner depositing 1/3rd of the disputed tax within a period of six weeks.

6. Pending disposal of the appeal before the 5th respondent, petitioner complied with the same.

7. Subsequently, 5th respondent rejected the said appeal on 21.09.2016.

8. Challenging the said order, petitioner filed an appeal before the Telangana VAT Appellate Tribunal in TA.No.32 of 2018 and while filing the said appeal, petitioner deposited 50% of the disputed tax as mandatory pre-deposit.

9. On 17.12.2019, the 4th respondent issued final notice demanding payment of balance disputed tax.

10. Petitioner then sought stay of payment of the balance disputed tax by filing an application before the 4th respondent and the 4th respondent rejected it by the impugned order.

11. Challenging the same, this Writ Petition is filed.

12. Counsel for the petitioner states that if the entire disputed tax is recovered from the petitioner pending decision by the Telangana VAT Appellate Tribunal in TA.No.32 of 2018, grave prejudice would be caused to the petitioner.

13. Heard Sri J.Anil Kumar, Special Counsel for Commercial Taxes.

14. We *prima facie* agree with the contention of the petitioner that if the entire disputed tax is recovered by the respondents pending decision in TA.No.32 of 2018, the very appeal filed by the petitioner before the Telangana VAT Appellate Tribunal would be rendered infructuous.

15. Therefore, this Writ Petition is allowed; the order dt.17.12.2019 of the 4th respondent is set aside; and pending disposal of the appeal TA.No.32 of 2018 before the Telangana VAT Appellate Tribunal, there shall be stay of recovery of 50% of the disputed tax, subject to the petitioner depositing the other 50% of the disputed tax including the amounts which the petitioner had already paid. No order as to costs.

16. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

T.AMARNATH GOUD

03rd February, 2020.

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