

16.01.2024
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PG/KS
Ct. No.1

**M.A.T. 46 of 2024
With
I.A. No. CAN 1 of 2024**

**Basanta Kumar Shaw,
Propreitor of M/s. NMD Engineering Works
Versus
The Assistant Commissioner
Of Revenue, Commercial Taxes
& State Tax, Tamluk Charge & ors.**

Mr. Ankit Kanodia
Ms. Mgha Agarwal
Mr. Jitesh Sah.....for the appellant

Mr. Anirban Ray, Ld.GP
Mr. T.M. Siddique
Mr. Tanoy Chakraborty
Mr. S. Sanyalfor the State

1. This intra-Court appeal filed by the writ petitioner is directed against the order dated 2nd January, 2024 in W.P.A. 28790 of 2023 by which the learned Single Bench while granting interim order, imposed a condition that the appellant should deposit further sum of 20% of the disputed tax.
2. It is not disputed by the respondents/department that the appellant had deposited 10% of the disputed tax while filing the appeal before the appellate authority.
3. Since the tribunal is yet to be constituted, the appellant challenged the order passed by the appellate authority by filing the writ petition. Thus, considering the facts and circumstances of the case and also taking note of

the fact that the appellant is a proprietor carrying on a small business venture, we hold that the deposit of 10% by the appellant at the time of filing the appeal before the appellate authority will sufficiently safeguard the interests of the revenue.

4. Therefore, the appeal is allowed and the direction issued by the learned Single Bench to deposit 20% of the disputed tax is set aside and there will be an interim stay of recovery proceedings against the appellant.
5. The respondents are directed to file their affidavit-in-opposition within two weeks from date; reply, thereto, if any, may be filed a week thereafter.
6. Let the writ petition be listed before the learned Single Bench in the week commencing on 12th February, 2024.
7. With the above observations, the appeal and the connected application stand disposed of.
8. No costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

**(T.S SIVAGNANAM)
CHIEF JUSTICE**

(HIRANMAY BHATTACHARYYA, J.)