IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NOs.10828 to 10830 OF 2015
and
M.P. Nos. 1 to 1 of 2015

M/s.S.C.Shah Enterprises,
Rep.by its Proprietor,
Mr.Shankarlal C.Shah,
No.315, Mint Street,
Chennai-600 003. ...Petitioner in all WPs

Vs

1 The Appellate Deputy Commissioner(CT) North,
Greams Road,
Chennai-600 006.

2. The Assistant Commissioner (CT),
Moore Market, Assessment Circle,
Chennai ...Respondents in all WPs

PRAYER: These Writ Petitions have been filed under section 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus, to call for the records of the first respondent in SP. Nos.35, 36 & 34/15 in VAT A.P. Nos. 43, 44 & 42/15 dated 09.03.2015 and quash the same and further direct the first respondent to grant an absolute stay for the balance of tax and the entire penalty amount without insisting upon furnishing of bank guarantee till the pending disposal of the appeal on the files of the first respondent.

For petitioner : Ms. C.Rekha Kumari
For respondents : Mr. S.Kanmani Annamalai, AGP(T)

O R D E R

The petitioner has come to this Court challenging the impugned orders passed by the Appellate Deputy Commissioner (CT) North, Chennai, the first respondent herein, in SP. Nos.35, 36 & 34/15 in VAT A.P. Nos. 43, 44 & 42/15 dated 09.03.2015 and direct the first respondent to grant an absolute stay for the balance of tax and the entire penalty amount without insisting upon furnishing of bank guarantee, till the disposal of the appeals, pending on the file of the first respondent.

2. Learned counsel appearing for the petitioner submitted that orders of stay were granted on the appeals by the first respondent, subject to payment of 25% of the disputed tax amount, along with a further condition that the petitioner should also furnish Bank Guarantee to the fullest satisfaction of the Assessing Officer for the balance of Tax and Penalty for a period of minimum six months from a nationalised or scheduled bank before the Assessing Officer on or before 08.04.2015. Accordingly, the petitioner has paid 25% of the disputed tax on 06.04.2015. The petitioner, having paid on an earlier occasion also, as per the order passed by the second respondent, 25% of the disputed tax, he should not have been mucked with unworkable condition to again furnish bank guarantee to the fullest satisfaction. Adding further, learned counsel for the petitioner would submit that in lieu of bank guarantee, the petitioner is prepared to execute a personal bond.

3. Mr. S. Kanmani Annamalai, learned Additional Government Pleader representing the respondents also agreed to the said submission, in the light of the earlier order passed by this Court in W.P. Nos. 7031 of 2015 and 9533 & 9534 of 2015 and requested this Court to direct the petitioner to execute personal bonds to that effect, within a week's time.

4. Accepting the said submission made by learned Additional Government Pleader and keeping in view the fact that the petitioner had already paid 25% of the disputed tax before the second respondent, the second condition, imposed by the first respondent while paying another 25% of the disputed tax amount, is modified, without disturbing the first condition. Hence, the petitioner is directed to execute personal bonds instead of bank guarantees, within a period of two weeks from the date of receipt of a copy of this order.

5. With this direction, all the writ petitions are disposed of. Consequently, the connected M.Ps are closed. No order as to costs.

avr

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1 The Appellate Deputy Commissioner(CT) North,
Greams Road,
Chennai-600 003.

2. The Assistant Commissioner(CT),
Mooremarket, Assessment Circle,
Chennai

+ 3 ccs to M/s.C.ekhakumari, Advoate SR 20857

+ 1 cc to the Spl.Govt.Pleader (Taxes) SR 20583

vd(co)
prk25/5

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and
M.P. Nos. 1 to 1 of 2015