IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.13225 to 13228 of 2015

M/s Jindal Steels
rep.by its Partner
Mrs.Dimple Bajaj
No.10/45-A, Barnaby Road
Chennai 600 010 .. Petitioner in all the writ petitions

-vs-

1. The Appellate Deputy
Commissioner (CT) Central
Greams Road
Chennai 600 006

2. The Assistant Commissioner (CT)
Kilpauk Assessment Circle
Chennai .. Respondents in all the writ petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in SP.Nos.213, 214, 215 & 216 of 2015 in VAT AP.Nos.255, 256, 257 & 258 of 2015 dated 8.4.2015 respectively 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 appeals on the file of the first respondent.

For Petitioner :: Ms.C.Rekha Kumari

For Respondents :: Mr.A.N.R.Jaya Prathap
Government Advocate

ORDER

All these writ petitions have been filed by M/s Jindal Steels represented by its partner, challenging the impugned orders passed by the first respondent in SP.Nos.213, 214, 215 & 216 of 2015 in VAT AP.Nos.255, 256, 257 & 258 of 2015 dated 8.4.2015 in respect of the assessment years 2007-08, 2009-10, 2010-11 & 2011-12 respectively, wherein the first respondent directed the petitioner to pay another

25% of the disputed tax amount and again directed the petitioner to furnish bank guarantee to the fullest satisfaction of the assessing authority for the balance amount of tax and penalty on or before 07.05.2015.

2. Challenging the second condition imposed against the petitioner, the learned counsel appearing for the petitioner submitted that the approach adopted by the first respondent clearly shows that he has failed to appreciate Section 24(2) of the Tamil Nadu General Sales Tax Act and Section 42 of the Tamil Nadu Value Added Tax Act read with Section 9 of the Central Sales Tax Act. A joint reading of these provisions would clearly show that there has been an automatic charge created on the assets of the petitioner and therefore, there is no necessity for a direction to file security for the balance amount of taxes. That apart, at the time of filing an appeal, the petitioner had already deposited 25% of the disputed tax amount and again when the stay application was taken up, the first respondent again directed the payment of another 25% of the disputed tax amount. That amount was also paid. While so, the petitioner is not in a position to file bank guarantee for the balance amount of tax and penalty.

3. Heard the learned counsel for the petitioner and the learned Government Advocate taking notice on behalf of the respondents.

4. This Court, in identical circumstances, while dealing with a similar impugned order, modified only the second condition to one of directing the petitioner to execute personal bond instead of furnishing bank guarantee for the balance amount of tax and penalty.

5. In view of the fact that this Court had already considered a similar prayer and following the similar orders, these writ petitions stand disposed of by confirming the first condition and replacing the second condition to one of directing the petitioner to execute personal bond for the balance amount of tax and penalty, as there has been an automatic charge created in view of Section 24(2) of the Tamil Nadu General Sales Tax Act and Section 42 of the Tamil Nadu Value Added Tax Act read with Section 9 of the Central Sales Tax Act. The petitioner is directed to execute the personal bond within a period of fifteen days from the date of receipt of a copy of this order. Consequently, M.P.Nos.1 of 2015 are closed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

ss

To

1. The Appellate Deputy
   Commissioner (CT) Central
   Greams Road
   Chennai 600 006

2. The Assistant Commissioner (CT)
   Kilpauk Assessment Circle
   Chennai

4 ccs to M/s.C. Rekhakumari, Advocate, Sr. 24006
1 cc to Special Government pleader (Taxes), Sr. 24148

W.P.Nos.13225 to 13228 of 2015

RSK (CO)
kk 26/5