IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.13581 and 13582 of 2015
And
M.P.Nos.1 and 1 of 2015

M/s.JINDAL Steels
Rep. by its Partner
Mrs.Dimple Bajaj ...Petitioner in both W.Ps.

Vs.

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

2.The Assistant Commissioner(CT),
Kilpauk Assessment Circle,
Chennai. ...Respondents in both W.Ps.

Common Prayer: Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the first respondent in S.P.Nos.234 of 2015 and 235 of 2015 respectively in VAT.A.P.273 of 2015 and VAT.A.P.274 of 2015 respectively dated 23.04.2015 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 Kumar

For Respondents: Mr.V.Haribabu
Additional Government Pleader(Taxes)

COMMON ORDER

These Writ Petitions have been filed by M/s.JINDAL Steels, represented by its Partner, challenging the impugned order passed by the first respondent in S.P.Nos.234 and 235 of 2015 in VAT.A.P.Nos.273 and 274 of 2015 respectively, dated 23.04.2015, wherein the first respondent directed the petitioner to pay another 25% of the disputed tax amount and again directed the petitioner to furnish the bank guarantee to the fullest satisfaction of the Assessing Officer for the balance amount of Tax and Penalty from a Nationalised or Scheduled Bank before the Assessing Officer on or before 22.05.2015.

2.Challenging the second condition imposed against the petitioner, the learned counsel appearing for the petitioner would submit that the approach adopted by the first respondent clearly shows that he has failed to appreciate Section 24(2) of the TNGST Act and Section 42 of the TNVAT Act read with Section 9 of the CST Act. A joint reading of these provisions clearly shows 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 has also deposited 25% of the disputed tax amount and again when the stay application has been taken up, the first respondent 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 a Bank Guarantee for the balance amount of tax and penalty.

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

4.In view of the fact that this Court has already considered the similar prayer and following the similar order, these writ petitions stand disposed of by confirming the first condition and replacing the second condition to one of directing the petitioner to execute a 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 TNGST Act and Section 42 of the TNVAT Act read with Section 9 of the CST Act. The petitioner is directed to execute the personal bond within a period of 15 days from the date of receipt of a copy of this order.

5.These writ petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

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

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

2 ccs to Mr.C. Rekha Kumari, Advocate, sr. 24642

W.P.Nos. 13581 and
13582 of 2015
And
M.P.Nos.1 and
1 of 2015

SR (CO)
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