IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.05.2015

CORAM

THE HONOURABLE Mr.JUSTICE R.SUBBIAH

Writ Petition Nos.14371 and 14372 of 2015
& M.P.Nos.1 and 1 of 2015

Meenakshi (India) Ltd.,
Represented by its General Manager, (Finance),
Anant Kankani,
No.29/16, Whites Road,
Chennai - 600 014. ... Petitioner in both W.Ps.

.. Vs ..

1. The Assistant Commissioner,
Kothavalchavadi Assessment Circle,
No.48/39, Wavoo Mansion,
Rajaji Salai,
Chennai - 600 001.

2. The Appellate Deputy Commissioner (CT)
(North) (FAC),
C.T.Building Annexe 3rd Floor,
Greams Road,
Chennai - 600 006. ... Respondents in both W.Ps.

Prayer in both W.Ps.: Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorari, to call for the records of the second respondent herein in S.P.Nos.64 & 65/2015 respectively, arising out of APV.Nos.67 & 68/2015 respectively, dated 27.04.2015, and quash the same, in so far as it relates to direction to furnish bank guarantee for the balance of Tax and Penalty.

In both W.Ps.

For Petitioner : Mr.N.Inbarajan

COMMON ORDER

These two writ petitions are filed by Meenakshi (India) Limited represented by its General Manager (Finance), viz., Anant Kankani, aggrieved by the impugned orders dated 27.04.2015 passed by the Appellate Deputy Commissioner (CT), (North) (FAC), Chennai, directing the petitioner to pay 25% of the disputed amount of tax due before the assessing authority with further direction to file valid security in favour of the assessing authority with regard to the balance tax amount of Rs.1,33,660/- and Rs.1,60,573/- respectively.

2. Aggrieved by the orders passed by the first respondent/ Assistant Commissioner, the petitioner has filed appeals along with the stay petitions before the second respondent on deposit of 25% of the disputed tax. While entertaining the appeals, the petitioner was directed to pay 25% of the disputed tax on or before 26.05.2015 and furnish bank guarantee for the balance amount. The grievance of the petitioner is that the petitioner has deposited 50% of the disputed tax as required under Section 51 of the TNVAT Act and therefore, the second respondent, instead of directing the petitioner to furnish valid bank guarantee for the remaining amount, could have directed the petitioner to execute a personal bond.

3. I have heard the learned counsel for the petitioner.

4. The present writ petitions are confined to the direction with regard to the execution of bank Guarantee for the balance amount of disputed tax of Rs.1,33,660/- and Rs.1,60,573/- respectively and the penalty of Rs.62,87,686/- and 67,41,680/- respectively.

5. The petitioner has already deposited 50% of the disputed amount of tax pursuant to the direction given by the Appellate Deputy Commissioner. In addition to the deposit of 50%, the Appellate Deputy Commissioner, directed the petitioner to produce Bank Guarantee for the remaining amount of tax and penalty.

6. This Court has passed several orders on earlier occasions substituting the condition with regard to execution of Bank Guarantee by permitting the concerned appellants to produce a personal bond, undertaking to pay the entire amount, in case the appeal is rejected.

7. The petitioner is also similarly placed. I am therefore, of the view that the petitioner should be permitted to execute a personal bond instead of Bank Guarantee.

8. In the result, the impugned orders are modified by permitting the petitioner to execute a personal bond undertaking to pay the balance amount of disputed tax of Rs.1,33,660/- and Rs.1,60,573/- respectively and the penalty of Rs.62,87,686/- and 67,41,680/- respectively. The petitioner is directed to execute the personal bond within a period of two weeks from the date of receipt

of a copy of this order and in case of execution of such personal bond the order of stay granted by the second respondent would be in force, till the disposal of the statutory appeal.

9. These two writ petitions are allowed, as indicated above. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Jrl/mra

To

1. The Assistant Commissioner,
Kothavalchavadi Assessment Circle,
No.48/39, Wavoo Mansion,
Rajaji Salai,
Chennai - 600 001.

2. The Appellate Deputy Commissioner (CT)
(North) (FAC),
C.T.Building Annexe 3rd Floor,
Greams Road,
Chennai - 600 006.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.25112
+1cc to the Special Government Pleader(Taxes), S.R.No.25150

W.P.Nos.14371 & 14372/2015

KU(CO)
CA(27/05/2015)