IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2015

Coram:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.16207 to 16209 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s.Sri Lakshmi Industries,
Rep. By its Proprietor – V.Selvaraj,
No.18, Gandhi Road-V,
Arakkonam,
Vellore District. .. Petitioner in W.P.Nos.16207 to 16209/2015

-Vs-

1.The Commercial Tax Officer,
Arakkonam.

2.The Appellate Deputy Commissioner (CT)
Commercial Taxes Building
Vellore. .. Respondents in W.P.Nos.16207 to 16209/2015

PRAYER: Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the file of the 2nd respondent in his proceedings in S.P.Nos.154/2015 in APV 139/2015, 155/2015 in APV 140/2015 and 156/2015 in APV 141/2015 respectively dated 25.05.2015 and quash the same in so far as it directs the petitioner to furnish security for the balance of disputed taxes and penalty due for the assessment years 2011-2012, 2012-2013 and 2013-2014 respectively under the TNVAT Act, 2006.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.Manoharan Sundaram
Additional Government Pleader(Taxes)
(All the writ petitions)

O R D E R

Mr.Manoharan Sundaram, learned Additional Government Pleader (Taxes), takes notice for the respondents. With the consent of both sides, the Writ Petitions are taken up for final disposal.

2. The relevant assessment years are 2011-2012, 2012-2013 and 2013-2014. The Assessing Officer, the above mentioned first respondent, has completed the assessment. Aggrieved by that, the petitioner has preferred appeals before the Appellate Authority, the above mentioned second respondent. Along with the appeals, the petitioner has also filed stay petitions. The second respondent has passed orders dated 25.05.2015 in stay petitions in S.P.Nos.154/2015, 155/2015 and 156/2015 with the following conditions:-

> ""S.P.No.154/2015
>
> (i) The petitioner shall pay a further amount of Rs.56,188/- being another 25% of the disputed tax within one month and file a bank guarantee for the remaining balance of Rs.4,49,195/- (tax Rs.1,12,065/- + penalty Rs.3,37,130/-) on or before 24.06.2015; and
>
> (ii) The Bank Guarantee shall be for a period of six months that is upto 24.11.2015 and the duplicate copy of Bank Guarantee attested by the Commercial Tax Officer, Arakkonam Assessment Circle shall be filed in this office for awareness and file purpose."
>
> S.P.No.155/2015
>
> (i) The petitioner shall pay a further amount of Rs.87,397/- being another 25% of the disputed tax within one month and file a bank guarantee for the remaining balance of Rs.6,98,571/- (tax Rs.1,74,190/- + penalty Rs.5,24,381/-) on or before 24.06.2015; and
>
> (ii)The Bank Guarantee shall be for a period of six months that is upto 24.11.2015 and the duplicate copy of Bank Guarantee attested by the Commercial Tax Officer, Arakkonam Assessment Circle shall be filed in this office for awareness and file purpose."
>
> S.P.No.156/2015
>
> (i) The petitioner shall pay a further amount of Rs.2,69,355/- being

another 25% of the disputed tax within one month and file a bank guarantee for the remaining balance of Rs.21,54,190/- (tax Rs.5,38,063/- + penalty Rs.16,16,127/-) on or before 24.06.2015; and

(ii) The Bank Guarantee shall be for a period of six months that is upto 24.11.2015 and the duplicate copy of Bank Guarantee attested by the Commercial Tax Officer, Arakkonam Assessment Circle shall be filed in this office for awareness and file purpose."

3. In respect of the above conditions, the learned Counsel for the petitioner fairly stated that the petitioner had already complied with the direction with regard to payment of another 25% of the disputed tax, but, in so far as the condition of filing the bank guarantee for the remaining balance of tax is concerned, he stated that the said condition is onerous and due to financial constraints, the petitioner could not comply with the said direction of the Appellate Authority. The petitioner has already paid 50% of the disputed taxes.

4. In view of the above submission, this Court is inclined to modify the second condition of the appellate authority. Accordingly, in lieu of executing the bank guarantee, this Court directs the petitioner to execute personal bonds for the remaining balance amounts of Rs.4,49,195/-, Rs.6,98,571/- and Rs.21,54,190/- (tax and penalty) within a period of two weeks from the date of receipt of a copy of this order as they have already deposited 50% of the disputed tax.

5. With the above observations, these Writ Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To
1.The Commercial Tax Officer,
   Arakkonam.

2.The Appellate Deputy Commissioner (CT)
   Commercial Taxes Building
   Vellore.

3 cc to M/s.R.Hemalatha , Advocate Sr.No.
1 cc to Special Government Pleader(Taxes).Sr.No.28124

W.P.Nos.16207 to
16209 of 2015
and
M.P.Nos.1 and 2 of 2015

bvr(co)
pmk.18.8.2015