IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21997 of 2015
and
M.P.No.1 of 2015

Ashok Leyland Limited
represented by its Deputy General Manager
- Corporate Taxes
K.K.Sekar
No.1, Sardhar Patel Road
Guindy, Chennai - 600 032. ...Petitioner

-vs-

1. The Deputy Commissioner (CT) III
Large Taxpayers Unit
Dugar Towers
34, Marshalls Road,
Egmore, Chennai - 600 008.

2. The Joint Commissioner (CT) (Appeals)
III Floor, C.T. Building Annexe,
Greams Road, Chennai - 600 006. ...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the second respondent in S.P.No.37/2015 in A.P.No.37 of 2015 dated 10.07.2015 and quash the same.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.S.Kanmani Annamalai
Additional Govt. Pleader (T)

ORDER

This Writ Petition has been filed by M/s.Ashok Leyland Limited, represented by its Deputy General Manager, challenging the impugned order passed by the second respondent in S.P.No.37/2015 in A.P.No.37 of 2015 dated 10.07.2015, wherein the second respondent directed the petitioner to furnish bank guarantee to the satisfaction of the assessing authority for the balance amount of tax and penalty on or before 24.07.2015.

2. Challenging the said condition imposed against the petitioner, the learned counsel appearing for the petitioner submitted that the approach adopted by the second 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 the appeal, the petitioner had deposited 25% of the disputed tax amount and thereafter, on the request of the assessing officer, the petitioner had paid another 25% of the disputed tax amount in two instalments on 30.01.2015 and 30.03.2015. 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 Additional Government Pleader (Taxes) taking notice on behalf of the respondents.

4. This Court, in identical circumstances, while dealing with a similar impugned order, modified the said 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, this writ petition stands disposed of by replacing the 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, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mra

To

1. The Deputy Commissioner (CT) III
Large Taxpayers Unit
Dugar Towers
34, Marshalls Road,
Egmore, Chennai - 600 008.

2. The Joint Commissioner (CT) (Appeals)
III Floor, C.T. Building Annexe,
Greams Road, Chennai - 600 006.

1 CC to Mr.N.Inbarajan, Advocate SR.No. 37354

1 CC to Spl.Government Pleader (Taxes), SR.No. 37245

W.P.No.21997 of 2015
and
M.P.No.1 of 2015

VGI (CO)
PSI (02.09.2015)