

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24540 of 2015

ADR Imports
Rep. by its Proprietrix,
Helan Latha Bai,
6/25 Kayalar Street,
Pallavaram,
Chennai - 600043.

[PETITIONER]

Vs

1. The Appellate Deputy Commissioner
(CT) East ,
Commercial Taxes Annexe Building,
1, Greams Road,
Chennai- 600 006.
- 2 The Commercial Tax Officer
Pallavaram Assessment Circle,
Plot No.32 & 33 2nd Street,
Sripuram, Chrompet,
Chennai - 600 044.

[Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the first respondent in SP No. 285/2015 in AP No.279/2015 and quash the order dated 07-07-2015 so far as the condition of furnishing of security for the balance of disputed penalty in the form of bank guarantee is concerned pending disposal of the appeal.

For Petitioner : Mr.R. Kumar
For Respondents : Mr.S.Kanmani Annamalai, AGP(T)

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes), who took notice for the respondents and with their consent, the main writ petition is taken up for disposal.

2. The petitioner has come forward with this writ petition challenging the order dated 07.07.2015 on the file of the first respondent, imposing a condition that the petitioner should furnish a bank guarantee for the penalty during the currency of appeal proceedings.

3. The petitioner filed an appeal before the first respondent challenging the Assessment orders passed by the second respondent. The appeal was taken on file by the first respondent along with stay petition filed by the petitioner. The appellate authority was pleased to grant an order of stay in the said petition, directing the petitioner to furnish bank guarantee in respect of penalty amount on or before 06.08.2015. The said onerous condition is challenged in this writ petition.

4. The petitioner has paid the entire tax amount even before the issuance of show cause notice. Hence, according to the petitioner, question of imposing penalty does not arise. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the penalty imposed on or before 06.08.2015.

5. This Court, in catena of decisions, directed the assessee to execute a personal bond in lieu of furnishing bank guarantee.

6. Therefore, the writ petition is disposed of with a direction to the petitioner to execute personal bond for the penalty amount, in lieu of furnishing bank guarantee, within a period of two weeks from the date of receipt of a copy of this order. On such executing the personal bond, the order of stay granted by the first respondent shall be in force till the disposal of the appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (J)

/true copy/ सत्यमेव जयते

Sub Asst. Registrar

To

1. The Appellate Deputy Commissioner
(CT) East ,
Commercial Taxes Annexe Building,
1, Greaves Road,
Chennai- 600 006.

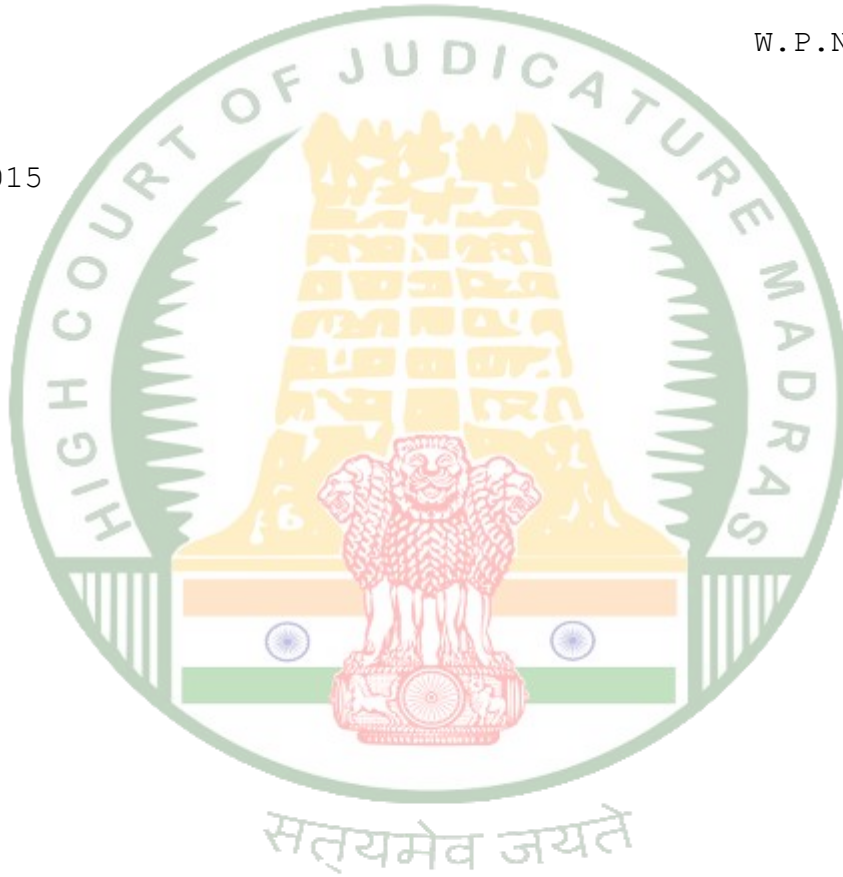
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2 The Commercial Tax Officer
Pallavaram Assessment Circle,
Plot No.32 & 33 2nd Street,
Sripuram, Chrompet,
Chennai - 600 044.

+1 cc to Mr.R.Kumar, Advocate sr.41268
+1 cc to Special Government Pleader Taxes, High Court
Chennai-104

W.P.No.24540 of 2015

bvr(co)
aa25/08/2015



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