

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 3.2.2015.

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2465 of 2015

and

M.P.No.1 of 2015

1. Tvl. GMI Industries
Rep. by its Proprietor
Mr.Jagtar Singh Jandu
No.491 M.K.N. Road
Alandur Chennai-16. Petitioner

Vs

1. The Appellate Deputy
Commissioner (CT) East
3rd Floor PAPJM Annex Building
No.1 Greams Road Chennai-6.
2. The Deputy Commercial Tax Officer
Alandur Assessment Circle
62A Pudupet Street
Alandur Chennai-16. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records on the file of the 1st respondent in S.P. No.6 of 2015 in A.P.V. No.313/2014/East dated 07.01.15 and quash the same being illegal, invalid and against the law and direct the 2nd respondent to entertain personal bond as security in lieu of bank guarantee till the disposal of the appeal pending before the 1st respondent.

For Petitioner : Mr.D.Vijaykumar

For Respondents : Mr.Manohar Sundaram AGP (T)

ORDER

The petitioner has filed this writ petition for issuance of a writ of certiorarified mandamus calling for the records on the file of the 1st respondent in S.P. No.7 of 2015 in A.P.V. No.314/2014/East dated 07.01.15 and quash the same being illegal, invalid and against the law and direct the 2nd respondent to entertain personal bond as security in lieu of bank guarantee till the disposal of the appeal pending before the 1st respondent.

2. With consent of both the parties, this Writ Petition is taken up for hearing at the stage of admission itself.

3. Petitioner seeks modification of the order passed by the first respondent Appellate Authority in the stay petition in so far as it directs the petitioner to furnish bank guarantee. The petitioner is before this Court seeking modification of the order in so far as it imposes the condition to submit bank guarantee stating that the condition is onerous and is causing serious prejudice to the petitioner company.

4. The petitioner relies on the decision of this Court, dated 09.11.2012 made in W.P.No.30301 of 2012 (M/s.R.A. & Co., rep. By its Partner vs. The Appellate Deputy Commissioner (CT) VI (FAC) and another) in which, in para 5, an earlier decision of this Court made in W.P.(MD) No.10567 of 2006 dated 27.11.2006 (M/s.Raja Ceramics represented by its Partner M.A.Nazimal Gani, 720 East Veli Street Madurai Vs. The Appellate Assistant Commissioner (CT) Madurai (South) was cited. Para 4 of the above decision reads as follows:

"4. In a number of similar matters, this Court modified the conditions. Considering the facts and circumstance of the case, the submission made on either side and keeping in view the fact that an automatic charge is created under Section 24(2) of the Tamil Nadu General Sales Tax Act on the properties of the defaulting assessee, the following order is passed:-

"The condition imposed in paragraph 6 of the order of the first respondent to the effect that the petitioner should furnish adequate security on or before 17.11.2006 is modified and the petitioner is directed to execute a personal bond for the balance of tax and penalty amounting to Rs.1,79,876/- (Rupees one lakh seventy nine thousand eight hundred and seventy six only) within a period of fifteen days from today, failing which, this order shall stand vacated."

5. In view of the above decision of this Court, the petitioner **shall furnish*** a personal bond for the **penalty*** within a period of fifteen days from the date of receipt of a copy of this order, failing which, the order shall stand automatically vacated. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Asst. Registrar(CO)
dt. 02.03.15

Amended as per order
dt. 05.03.15 made in
W.P.2465/15 SUNJ

/true copy/

Sd/-
Asst. Registrar(CO)
dt. 11.03.15

Sub Asst. Registrar.

ssk.

To

1. The Appellate Deputy
Commissioner (CT) East
3rd Floor PAPJM Annex Building
No.1 Greams Road Chennai-6.
2. The Deputy Commercial Tax Officer
Alandur Assessment Circle
62A Pudupet Street
Alandur Chennai-16.

To be substituted for the
order already despatched
03.03.15

+1cc to Mr.D.Vijaya Kumar, Advocate, S.R.No.12443*
+1cc to the special Government Pleader, S.R.No.12842*

W.P.No.2465 of 2015

BUR(CO)
CA(02/03/2015)
EU 11.03.15

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