IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.24865 and 24866 of 2015
and
M.P.Nos.1 of 2015

M/s. SHARP PLY (INDIA) PVT. LTD.
Rep. by its Authorised Signatory
No.106 Choolai High Road
Chennai-112. ... Petitioner in both Petitions

Vs

1. The Appellate Deputy Commissioner (CT) (FAC)
North Division 3rd Floor
Greams Road Chennai-6.

2. The Assistant Commissioner(CT)
Sowcarpet-II Assessment Circle
Chennai. ... Respondents in both Petitions

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus to call for the records of the first respondent in SP.No.126/15 in VAT A.P.125/15and SP.No.127/15 in VAT A.P.126/15 respectively dated 07/07/2015 and quash the same and further direct the first respondent to grant an absolute stay for the balance of tax amount without insisting upon furnishing of bank guarantee till the pending disposal of the respective appeals on the file of the first respondent.

For Petitioner : Ms.C.Rekha Kumari

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

C O M M O N 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 petitions are taken up for disposal.

2. The petitioner has come forward with these writ petitions challenging the orders dated 07.07.2015 on the file of the 1st respondent, imposing a condition that the petitioner should furnish a bank guarantee for the balance tax amount, during the currency of appeal proceedings.

3. The petitioner filed two appeals before the 1st respondent challenging the Assessment orders passed by the 2nd respondent. The appeals were taken on file by the 1st respondent along with stay petitions filed by the petitioner. The appellate authority was pleased to grant an order of stay in both petitions, directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 06.08.2015. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax in both the stay petitions. The said onerous condition is challenged in these writ petitions.

4. The petitioner has paid 25% of the disputed tax for the respective assessment years at the time of filing the appeals. Further, as directed by the Appellate authority, the petitioner also made payment of another 25% of the disputed amount and produced proof of payment. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the balance tax amount.

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

6. Therefore, the writ petitions are disposed of with a direction to the petitioner to execute personal bond for the balance tax amount for the respective assessment years, 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 bonds, the order of stay granted by the 1st respondent shall be in force till the disposal of the appeals. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Appellate Deputy Commissioner (CT) (FAC)
   North Division 3rd Floor
   Greams Road Chennai-6.

2. The Assistant Commissioner(CT)
   Sowcarpet-II Assessment Circle
   Chennai.

+2cc's to M/s.C.Rekha Kumari, Advocate, S.R.No.42258
+1cc to the Special Government Pleader(Taxes), S.R.No.42118

W.P.Nos.24865 and 24866 of 2015

VD(CO)
CA(26/08/2015)