

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24870 of 2015
and M.P.No.1 of 2015

Tvl. Grabmore Internet
Private Limited

Rep. by its Director Mr. G.Sathish Das
No.294 Purasawakkam High Road
Kellys Chennai-10.

[Petitioner]

Vs

1 The Commercial Tax Officer
Aynavaram Assessment Circle
Taylors Road
Chennai-10.

2 The Appellate Deputy Commissioner
(CT) CENTRAL
3rd Floor PAPJM Annex Building
No.1 Greams Road Chennai-6.

[Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records on the file of the 2nd respondent in S.P. No.355 of 2015 in A.P. VAT No.446/2015 dated 31.07.15 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.Vijayakumar

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

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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 31.07.2015 on the file of the 2nd 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 2nd respondent challenging the Assessment orders passed by the 1st respondent. The appeal was taken on file by the 2nd 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 31.08.2015. 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 31.08.2015.

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 2nd respondent shall be in force till the disposal of the appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1 The Commercial Tax Officer
Aynavaram Assessment Circle Taylors Road
Chennai-10.

2 The Appellate Deputy Commissioner (CT) CENTRAL
3rd Floor PAPJM Annex Building
No.1 Greams Road Chennai-6.

+ 1 cc to Mr.D. Vijayakumar, Advocate SR.41904
+ 1 cc to Sp. Government Pleader SR.42117

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RSI (CO)
EU 26.08.15