IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.26189 and 26190 of 2015

M/s.KOP Enterprises P Limited ... Petitioner in both WPs
Rep by its Director
No.10/10A Chakrapani Road
Narasingapuram Guindy Chennai 32

Vs

1 The Appellate Deputy Commissioner (CT)(East)
C.T. Building Annexe 3rd Floor
Greams Road Chennai 6

2 The Assistant Commissioner (CT)
Guindy Assessment Circle Chennai ...Respondents in both WPs

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records of 1st respondent in S.P. No.280/2015 in APV 277/2015 S.P.No.279/15 in APV 278/15 and quash the impugned order dt 20.7.2015 and further direct the 1st respondent to grant an absolute stay of collection of the balance of disputed tax and entire disputed penalty in respect of the Asst Year TIN 2012-2013 & 2013-2014 without imposing any further condition of furnishing of security in the form of immovable property or bank guarantee pending disposal of the appeal on his files.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.S.Manoharan Sundaram, AGP(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 20.07.2015 on the file of the 1st respondent, imposing a condition that the petitioner should

furnish bank guarantee for the balance tax amount and penalty, 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 19.08.2015. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax and penalty 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 and penalty.

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 and penalty 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.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1 The Appellate Deputy Commissioner (CT)(East)
C.T. Building Annexe 3rd Floor
Greams Road Chennai 6

2 The Assistant Commissioner (CT)
Guindy Assessment Circle Chennai

1 cc to Mr.P. Rajkumar, Advocate, Sr. 44500
1 cc to Spl.Government Pleader (Taxes), Sr. 44636

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MG (CO)
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