IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.26524 of 2015

M/s. Ooms Polymer Modified
Bitumen Pvt. Ltd.,
Represented by its Director,
Rajeev Kathal,
D.No.122/5, Ponneri High Road,
Chennai 600 103. [PETITIONER]

Vs

1 The Appellate Deputy Commissioner (CT),
North (FAC),
3rd Floor, Annexe Building,
Greams Road,
Chennai 600 006.

2 The Commercial Tax Officer,
Manali Assessment Circle,
Plot No.5/79, 1st and 2nd Floors,
Kaviyarasu Kannadasan Nagar,
Kodungaiyur,
Chennai 118. [Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the impugned proceedings of the first second respondent in S.P. No.142/2015 in APVAT No. 14/2015, dated 01.07.2015 and quash the same in so far as directing the petitioner to furnish Bank Guarantee for balance amount of Rs.50,32,843/- and further direct the first respondent to accept personal bond for the sum of of 50,32,840/- instead of Bank Guarantee pending disposal of appeal in APVAT No.14 of 2015.

For Petitioner : Mr.N.Murali
For Respondents : Mr.S.Manoharan Sundaram, 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 the writ petition challenging the order dated 01.07.2015 on the file of the first respondent, imposing a condition that the petitioner should furnish bank guarantee for the balance tax amount and penalty of Rs.50,32,843/- in the prescribed manner in fulfilment of the conditions stipulated in Rule 14(15) read with the proviso to section 52/4 of the Tamil Nadu Value added Tax Act 2006 on or before 31.07.2015 during the currency of appeal proceedings.

3. The petitioner filed an appeal before the 1st respondent challenging the Assessment orders passed by the 2nd respondent. The appeal was taken on file by the 1st respondent along with stay petition filed by the petitioner. The appellate authority was pleased to grant an order of stay in the stay petition, directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 31.07.2015. 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 the stay petition. The said onerous condition is challenged in this writ petition.

4. The petitioner has paid 25% of the disputed tax for the respective assessment years at the time of filing the appeal. Further, as directed by the Appellate authority, the petitioner also made payment of another 25% of the disputed amount on 05.08.2015 and produced the 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 petition is disposed of with a direction to the petitioner to execute personal bond for the balance tax amount and penalty for the assessment year 2008-09, 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 1st respondent shall be in force till the disposal of the appeal. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1 The Assistant Commissioner (CT),
Pattaravakkam Assessment Circle,
No.5, 1st Floor, High Court Colony,
Villivakkam,
Chennai 600 049.

2 The Appellate Deputy Commissioner (CT),
Chennai (South),
3rd Floor, C.T.Building Annexe,
No.1, Greams Road,
Chennai 600 006.

+1 cc to Special Government Pleader (Taxes)High Court, Madras sr.45369
+1 cc to M/S.N.Murali, Advocate sr.44931

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