IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.26533 to 26538 of 2015

and M.P.Nos.1 of 2015

M/s.Comfy Shoe Makers Pvt. Ltd.,
Represented by its
Managing Director,
Upendra Bhatia,
No.295, Developed Plot,
SIDCO Industrial Estate,
Ambattur,
Chennai 600 098. [Petitioner]in all the WPs

Vs

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.

[Respondents]in all the WPs

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records of the second respondent in S.P. No.109 to 114/2015 in AP.145 to 150/2015-VAT respectively, dated 29.07.2015 and quash the same, while directing the petitioners to furnish personal bond for the amount of Rs.4,97,923/- Rs.13,46,449/- Rs.18,41,776/- Rs.36,26,014/- Rs.18,27,159/- & Rs.1,77,825 respectively being the balance of tax and penalty.

For Petitioner : Mr.N.Inbarajan
For Respondents : Mr.S.Manoharan Sundaram, AGP(T)

COMMON ORDER

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 29.07.2015 on the file of the second 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 appeals before the second respondent challenging the respective Assessment orders passed by the first respondent. The appeals were taken on file by the second respondent along with stay petitions filed by the petitioner. The appellate authority was pleased to grant an order of stay in all the stay petitions, directing the petitioner to pay another 25% of the respective disputed amount of tax before the Assessing Authority on or before 28.08.2015. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of the respective balance amount of tax and penalty in 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 second respondent shall be in force till the disposal of the appeals. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1 The Assistant Commissioner (CT),
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+1 cc to Mr.N.Inbarajan Advocate sr.45286
+1 cc to special Government pleader(Taxes) vide sr.45373

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aa08/09/2015