IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.26732 and 26733 of 2015

New Geetha Company [Petitioner]
Represented by its Proprietor
R. Jayaprakash No.17 North Bazaar
Kamarajapuram Chennai-72.

Vs

1 The Appellate Deputy Commissioner (CT)
Chennai South
Commercial Taxes Annexe Building
1 Greams Road, Chennai-6.

2 The Assistant Commissioner (CT)
Avadi Assessment Circle
No.9 Second Street
Kasthuribai Nagar, Avadi, Chennai-54. [Respondents]

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the first respondent in SP No. 106 and 107/2015 in AP No. 157 and 158/2015-VAT respectively and quash the order dated 24-07-2015 so far as the condition of furnishing of security for the balance of disputed tax penalty in the form of bank guarantee is concerned pending disposal of the appeal.

For Petitioner : Mr.R.Kumar

For Respondents : Mr.A.N.R.Jayapratap, GA

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 24.07.2015 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 appeals before the 1st respondent challenging the respective 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 the stay petitions, 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 50% of the disputed tax for the respective assessment years at the time of filing the appeals instead of payment of 25% of the tax amount and produced proof for such 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.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

rg

To

1 The Appellate Deputy Commissioner (CT)
Chennai South
Commercial Taxes Annexe Building
1 Greams Road, Chennai-6.

2   The Assistant Commissioner (CT)
Avadi Assessment Circle
No.9 Second Street
Kasthuribai Nagar, Avadi, Chennai-54.

1 cc to Spl.Government Pleader, Sr. 46217
1 cc to Mr.R. Kumar, Advocate, Sr. 45962

VSN (CO)
kk 9/9