IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.26739 of 2015

ADR Imports
Rep. by its Proprietrix
Helan Latha Bai
6/25 Kayalar Street Pallavaram
Chennai - 43 [Petitioner]

Vs

1 The Appellate Deputy Commissioner (CT)
East Commercial Taxes
Annexe Building 1
Greams Road Chennai - 06

2 The Commercial Tax Officer
Pallavaram Assessment Circle
Plot No.32 & 33 II Street
Sripuram Chrompet Chennai -44

[Respondents]

Petition 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. 286/2015 in AP No. 285/2015 and quash the order dated 24-07-2015 so far as the condition of furnishing of security of the balance of disputed penalty in the form of bank guarantee is concerned pending disposal of the appeal.

For Petitioner : Mr.R.Kumar
For Respondents : Mr.ANR.Jayapratap, GA

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 24.07.2015 on the file of the 1st respondent, imposing a condition that the petitioner should furnish a bank guarantee for the disputed tax amount 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 said petition, directing the petitioner to furnish bank guarantee in respect of the balance tax amount on or before 23.08.2015. The said onerous condition is challenged in this writ petition.

4. The petitioner has paid 25% of the disputed tax for the assessment year 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 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 on or before 23.08.2015.

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, 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1 The Appellate Deputy Commissioner (CT)
East Commercial Taxes
Annexe Building 1 Greams Road Chennai - 06

2 The Commercial Tax Officer
Pallavaram Assessment Circle
Plot No.32 & 33 II Street
Sripuram Chrompet Chennai -44

+1cc to Mr.R. Kumar, Advocate, S.R.No.45963
+1cc to the Special Government Pleader, S.R.No.46218

VSN(CO)
EU(11/09/2015)