

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.28427 of 2015
and M.P.No.1 of 2015

M/s.S.G.Marketing
Rep.by its Proprietor,
No.338, Big Bazaar Street,
Trichy.

... Petitioner

vs.

1. The Appellate Deputy Commissioner (CT)
Trichy.
2. The Assistant Commissioner,
Mailamchandai - I, Assessment Circle,
Trichy.

... Respondents

Prayer :- Writ petition filed under Article 226 of the constitution of India praying for a writ of certiorarified mandamus calling for the records of the first respondent in SP No.167/15 in VAT A.P.159/15 dated 29.07.2015 and quash the same and further direct the first respondent to grant an absolute stay for the balance of tax amount and the entire penalty amount without insisting upon furnishing a bank guarantee till the pending disposal of the appeal on the file of the first respondent.

For Petitioner : Ms.C.Rekha Kumari

For Respondents : Mr.ANR Jayaprathap,
Govt. Advocate (Taxes)

O R D E R

The petitioner has approached this Court challenging the order dated 29.07.2015 by which the petitioner has been directed to furnish Bank Guarantee for the balance tax and penalty pending disposal of the appeal which has been filed by the petitioner challenging the assessment order passed by the second respondent. A conditional order of stay was granted by the first respondent directing the petitioner to pay a further sum of Rs.52,435/- on the disputed tax and furnish a Security Bond or Bank Guarantee for the balance tax and penalty of Rs.5,93,708/- on or before 28.08.2015.

2. Heard Ms.C.Rekha Kumar, learned counsel appearing for the petitioner and Mr.ANR Jayaprathap, learned Government Advocate appearing for the respondents.

3. Since the order directing the petitioner to pay a further sum of Rs.52,435/- on the disputed tax and furnish a Security Bond or Bank Guarantee for the balance tax and penalty is an onerous, as held by this Court in W.P.No.24033 of 2015 on 06.08.2015, the impugned order is set aside to the extent of directing the petitioner to furnish Bank Guarantee and it is modified directing the petitioner to execute a personal bond for the balance of tax and the entire penalty, in line 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 first respondent shall be made absolute till the disposal of the appeal.

4. With the above direction, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

grg

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Appellate Deputy Commissioner (CT)
Trichy.

2. The Assistant Commissioner,
Mailamchandai - I, Assessment Circle,
Trichy.

+ 1 cc to Spl.Govt.Pleader (T) SR 49119

+ 1 cc to M/s.C.Rekhakumari, Advocate SR 49061

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