

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.28515 of 2015
and M.P.No.1 of 2015

M/s.Kabirdass Motor Company Pvt. Ltd.,
No.16, Poonamallee High Road,
Velappanchavadi,
Chennai - 600 077.
Represented by its Director
Mr.Murali Kabirdass

... Petitioner

vs.

1.The Assistant Commissioner (CT),
Commercial Tax Department,
Thiruverkadu Assessment Circle,
Chennai - 600 107.

2.Appellate Deputy Commissioner (CT)
PAPJM Buildings,
Greens Road, Chennai - 600 006.

... Respondents

Prayer :- Writ petition filed under Article 226 of the constitution of India praying for a writ of certiorari calling for the records on the files of the second respondent herein in his S.P.No.123/2015 in AP 124/2015 VAT dated 12.08.2015 and quash the same in so far as it relates to the direction to file valid security in the form of bank guarantee obtained from any of the nationalised banks executed in favour of the 1st respondent herein.

For Petitioner : Mr.N.Mahendran

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

O R D E R

The petitioner has approached this Court challenging the order dated 12.08.2015 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.1,49,692/- on the disputed tax and furnish a Security Bond or Bank Guarantee for the balance tax and penalty of Rs.2,99,385/- on or before 11.09.2015.

2. Heard Mr.N.Mahendran, 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.1,49,692/- 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.

-s/d-

Assistant Registrar(CSII)
dt:29/09/2015

True Copy

Sub-Assistant Registrar

rgr
To

1.The Assistant Commissioner (CT),
Commercial Tax Department,
Thiruverkadu Assessment Circle,
Chennai - 600 107.

2.Appellate Deputy Commissioner (CT)
PAPJM Buildings,
Greens Road, Chennai - 600 006.

+1 cc to the Special Government Pleader(T) Sr.49414
+1 cc to Mr.N.Mahendran, Advocate sr.49690

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