IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.29501 of 2015

Sai Sri Engineers [Petitioner]
Rep. by its Authorized Signatory
M.Rajendra
Sinha 23 Chittoor Road Tiruttani
Tiruvallore District.

Vs

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

2 Commercial Tax Officer
Tiruttani Assessment Circle 94 M.P.S.Salai
1st Floor Tiruttani Tiruvallore District. [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 his proceedings in S.P.No. 126/2015 in A.P.No.176/2015 VAT dated 25.08.2015 and quash the same as illegal in so far as the condition of furnishing of Bank Guarantee is concerned.

For Petitioner : Mr.S.Ramanathan

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

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (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 25.08.2015 on the file of the 1st respondent, imposing a condition that the petitioner should furnish a bank guarantee for the penalty 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 balance tax and penalty amount on or before 24.09.2015. 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 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 petition is disposed of with a direction to the petitioner to execute personal bond for the balance tax amount and penalty for the assessment year, 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.

rg

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

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

2 Commercial Tax Officer
Tiruttani Assessment Circle 94 M.P.S.Salai
1st Floor Tiruttani Tiruvallore District.

+ 1 cc to Spl.Govt.Pleder (Taxes) SR 51370

+ 1 cc to Mr.S.Ramanathan, Advocate SR 51121

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