IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.31732 to 31735 of 2015

K.L.N.Engineering Products Pvt. Ltd., rep. by its Director Nakul Shetty .. Petitioner in all the W.Ps

Vs

1.The Appellate Deputy Commissioner (CT)
North (FAC), C.T. Buildings Annexe 3rd Floor,
Greams Road, Chennai - 6.

2.The Commercial Tax Officer,
Washermenpet Assessment Circle,
No.20, Kummalamman Koil Street,
Chennai - 81. .. Respondents in all the W.Ps

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 S.P.Nos.168/2015, 169/2015, 170/2015 and 171/2015 respectively in APV Nos.101/2015, 102/2015, 103/2015 and 32/2015 respectively and quash the order dated 10.09.2015 so far as the condition of furnishing of security for the balance of disputed tax in the form of bank guarantee is concerned pending disposal of the appeal.

For Petitioner : Mr.R.Kumar in all the W.Ps

For Respondents : Mr.V.Haribabu,
Addl. Govt. Pleader (T)
in all the W.Ps

COMMON ORDER

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 petitions are taken up for disposal.

2.Challenging the orders of the first respondent dated 10.09.2015 in S.P.Nos.168/2015, 169/2015, 170/2015 and 171/2015 respectively in APV Nos.101/2015, 102/2015, 103/2015 and 32/2015 respectively, whereby the petitioner was directed to pay 25% of the disputed tax and furnish a bank guarantee for the balance amount.

3.The petitioner is a registered dealer on the file of the second respondent with TIN No.33201221454 under the TNVAT Act. The petitioner is a manufacturer of automobile components and is filing monthly returns. By order dated 13.02.2015, the second respondent levied tax for the assessment years 2010-2011, 2011-2012 and 2012-2013, disallowing input tax credit and by order dated 10.03.2015, the second respondent levied tax for the assessment year 2011-2012, disallowing the forms for CST. Aggrieved by the same, the petitioner preferred appeals along with stay petitions before the first respondent. The first respondent, by the impugned orders dated 10.09.2015, granted stay on condition that the petitioner should pay 25% of the disputed tax and furnish bank guarantee for the balance of tax. Aggrieved against the same, the petitioner has filed these writ petitions.

4.Learned counsel for the petitioner would submit that at the time of filing appeals, the petitioner has paid 25% of the tax amount and once an order of assessment is passed, an automatic charge is created, as per Section 42(2) of the TVAT Act, which would safeguard the interest of the revenue. Therefore, the first respondent is not justified in demanding additional security.

5. This Court, in a catena of decisions, directed the assessees to execute a personal bond in lieu of furnishing bank guarantee, only with regard to the remaining 50% of tax and penalty. Therefore, these writ petitions are disposed of with a direction to the petitioner to pay 25% of the disputed tax as directed by the first respondent and execute personal bonds for the balance tax amount for the respective assessment years, in lieu of furnishing bank guarantees, within a period of two weeks from the date of receipt of a copy of this order. On such executing the personal bonds, the orders of stay granted by the first respondent shall be in force till the disposal of the appeal. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1.The Appellate Deputy Commissioner (CT)
North (FAC), C.T. Buildings Annexe 3rd Floor,
Greams Road, Chennai - 6.

2.The Commercial Tax Officer,
Washermenpet Assessment Circle,
No.20, Kummalamman Koil Street,
Chennai - 81.

1 cc to Mr.R. Kumar, Advocate,Sr. 54281
1 cc to Spl.Government Pleader, Sr. 54894

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SR (CO)
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