IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.34058 of 2015
and M.P.No.1 of 2015

Kutti and Kasi
Rep. by its Partner
P.S.Krishna Kumar
No.103, Armenian Street
Chennai-01. [Petitioner]

Vs

1 Appellate Deputy Commissioner
(CT) NORTH (FAC)
C.T. BUILDING Annexure
3rd floor Greams Road Chennai-06.

2 Assistant Commissioner (CT)
Loansquare Assessment Circle No.48/39
Rajaji Salai Chennai-01.
[Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari filed Mandamus to call for the impugned proceedings of the 1st respondent passed in S.P.No.102 of 2015 in APC 62 Of 2015 dated 06.10.2015 and to quash the same in so far as directing the petitioner to furnish Bank Guarantee for balance amount of Rs. 14 79 808/- and further direct the 1st respondent to accept personal bond for the sum Rs.14,79, 808/- instead of Bank Guarantee pending disposal of appeal in APC 62 Of 2015.

For Petitioner : Mr.N.Murali
For Respondents : Mr.S.Kanmani Annamalai, AGP(T)

C O M M O N 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 06.10.2015 on the file of the 1st respondent, imposing a condition that the petitioner should furnish a bank guarantee for the balance tax amount, during the currency of appeal proceedings.

3. The petitioner filed an appeal before the 1st respondent challenging the Assessment order 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 stay petition, directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 05.11.2015. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax in the stay petition. 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. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the balance tax amount.

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 for the assessment year 2012-13, 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1 The Appellate Deputy Commissioner
(CT) NORTH (FAC)
C.T. BUILDING Annexure
3rd floor Greams Road Chennai-06.

2 The Assistant Commissioner (CT)
Loansquare Assessment Circle No.48/39
Rajaji Salai Chennai-01.

+1cc to M/s. N. Murali, Advocate, S.R.No.58188
+1cc to the Government Pleader, S.R.No.58370

MP(CO)
EU(04/11/2015)

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