IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.35975 of 2015

M/s. Veekay Electric Impex
Represented by its Proprietor Pawan Bhurat
No.29, Sembudoss Street,
Chennai 600 001. [PETITIONER]

Vs

1. The Assistant Commissioner (CT),
Broadway Assessment Circle,
199, Thambu Chetty Street,
Chennai 600 001.

2. The Appellate Deputy Commissioner (CT) (North)
III Floor, Commercial Taxes Annexe Building,
Chennai 600 006.
[Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records on the files of the second respondent in S.P. No.183/2015 in APVAT No. 202/2015, dated 01.10.2015 and quash the same as illegal and direct the second respondent to grant absolute stay for the balance disputed tax and penalty till the disposal of appeal in A.P.VAT202/2015.

For Petitioner : Mr.P.Prithivi Chopda for
Mr.P.Pramidkumar Chopra

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 the writ petition challenging the order dated 01.10.2015 of the second respondent and to direct the second respondent to grant absolute stay for the balance disputed tax and penalty till the disposal of appeal.

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 stay petition, directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 31.10.2015. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax and penalty 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 respective assessment years 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 on 02.11.2015 and produced the 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 2014-15 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/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To
1. The Assistant Commissioner (CT),
Broadway Assessment Circle,
199, Thambu Chetty Street, Chennai 600 001.
2. The Appellate Deputy Commissioner (CT) (North)
III Floor, Commercial Taxes Annexe Building,
Chennai 600 006.
+1 cc to Mr.T.Pramodkumar Chopda, Advocate, sr.60981

W.P.No.35975 of 2015

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kra 23.11.2015