IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.36551 and 36552 of 2015
and M.P.Nos.1 of 2015

Akshada Aircon
Rep. by its Proprietor
V.V. Govinda Raman
No.43 Kanagavallipuram Street
Thiruvallur - 602 001 ..Petitioner in both the Petitions

Vs

1 Appellate Deputy Commissioner (CT)
Chennai South C.T. Building
Annexure 3rd floor Greams Road
Chennai - 600 006

2 Assistant Commissioner (CT)
Thiruvallur Assessment Circle
No.174 J.N. Road
Thiruvallur - 602 001 ..Respondents in both the Petitions

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the impugned proceedings of the 1st respondent passed in S.P.No. 161, 162/2015 in AP.217, 218/2015-VAT dated 15.10.2015 and to quash the same in so far as directing the petitioner to furnish Bank Guarantee for balance tax and penalty amount of Rs. 12,82,176/- and Rs.4,32,103/- respectively and further direct the 1st respondent to accept personal bond for the sum of Rs.12,82,176/- and Rs.4,32,103/- respectively instead of Bank Guarantee pending disposal of appeal in AP.217 and 218/2015-VAT

For Petitioner : Mr.N.Murali
For Respondents : Mr.S.Kanmani Annamalai, 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 petitions are taken up for disposal.

2. The petitioner has come forward with these writ petitions challenging the orders dated 15.10.2015 on the file of the 1st respondent, imposing a condition that the petitioner should furnish bank guarantee for the balance tax amount and penalty during the currency of appeal proceedings.

3. The petitioner filed appeals before the 1st respondent challenging the respective Assessment orders passed by the 2nd respondent. The appeals were taken on file by the 1st respondent along with stay petitions filed by the petitioner. The appellate authority was pleased to grant an order of stay in both the stay petitions, directing the petitioner to pay another 25% of the respective disputed amount of tax before the Assessing Authority on or before 14.11.2015. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of the respective balance amount of tax and penalty in the stay petitions. The said onerous condition is challenged in these writ petitions.

4. The petitioner has paid 25% of the disputed tax for the respective assessment years at the time of filing the appeals. 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 petitions are disposed of with a direction to the petitioner to execute personal bond for the balance tax amount and penalty for the respective assessment years, 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 bonds, the order of stay granted by the 1st respondent shall be in force till the disposal of the appeals. No costs. Consequently, connected miscellaneous petitions are closed.

rg

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1 Appellate Deputy Commissioner (CT)
Chennai South C.T. Building
Annexure 3rd floor Greams Road
Chennai - 600 006

2 Assistant Commissioner (CT)
Thiruvallur Assessment Circle
No.174 J.N. Road Thiruvallur - 602 001

+ 2 ccs to Mr.N.Murali, Advocate SR 61910

+ 1 cc to Govt.Pleader, SR 62212

vgi(co)
prk26/11

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