

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.11.2015
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.36573 and 36574 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 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 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. 159, 160/2015 in AP.215, 216/2015-VAT dated 15.10.2015 and to quash the same in so far as directing the petitioner to furnish Bank Guarantee for penalty of Rs.20,875/- and Rs.1,76,948/- respectively and further direct the 1st respondent to accept personal bond for the sum of Rs.20,875/- and Rs.1,76,948/- respectively instead of Bank Guarantee pending disposal of appeal in AP.215 and 216/2015-VAT respectively.

For Petitioner : Mr.N.Murali

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

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. The petitioner has come forward with this writ petition challenging the orders dated 15.10.2015 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 appeals before the 1st respondent challenging the 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 the said petitions, directing the petitioner to furnish bank guarantee in respect of penalty amount on or before 14.11.2015. The said onerous condition is challenged in these writ petitions.

4. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the penalty imposed on or before 14.11.2015.

5. This Court, in catena of decisions, directed the assesseees 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 bonds for the penalty amounts 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.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

rg
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

+1 cc to N.Murali, Advocate, sr.61909
+1 cc to Government Pleader, sr.62214

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kra 24.11.2015