IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.36918 of 2015
and M.P.No.1 of 2015

M/S. Midas Electrical Pvt ltd .. Petitioner
Rep. by its Director
No.23 Erulappan Street
Sowcarpet Chennai - 600 079

Vs

1 The Appellate Deputy Commissioner (CT) (FAC)
North Division 3rd Floor
Greams Road Chennai - 600 006

2 The Assistant Commissioner (CT)
Peddunaickenpet Assessment Circle
Chennai .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records of the first respondent in SP.NO. 207/15 in VAT A.P.183/15 dated 13/10/2015 and quash the same and further direct the first respondent to grant an absolute stay for the balance of tax amount and the entire penalty amount without insisting upon furnishing of bank guarantee till the pending disposal of the appeal on the files of the first respondent.

For Petitioner : Ms.C.Rekha Kumari

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 petition is taken up for disposal.

2. The petitioner has come forward with this writ petition challenging the order dated 13.10.2015 on the file of the 1st respondent, imposing a condition that the petitioner should furnish a bank guarantee for the balance of tax and penalty during the currency of appeal proceedings.

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 said petition, directing the petitioner to pay 25% of the disputed tax on or before 12.11.2015 and to furnish bank guarantee in respect of balance tax amount and penalty of Rs.14,37,950/- on or before 12.11.2015. The said onerous condition is challenged in this writ petition.

4. The petitioner has paid 25% of the tax amount along with stay application and as directed by the appellate authority, has also paid another 25% on 06.11.2015. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the balance tax amount and penalty on or before 12.11.2015.

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 remaining disputed tax and penalty, 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 (CS III )

/true copy/

Sub Asst. Registrar

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To

1 The Appellate Deputy Commissioner (CT) (FAC)
North Division 3rd Floor
Greams Road Chennai - 600 006

2 The Assistant Commissioner (CT)
Peddunaickenpet Assessment Circle
Chennai

+1 cc to M/s.C.Rekhakumari, Advocate, sr.62800
+1 cc to Special Government Pleader, (Taxes), sr.62914

W.P.No.36918 of 2015

gj co, kra 07.12.2015