

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.37823 of 2015
and M.P.No.1 of 2015

M/s.S.M.Marketing International [Petitioner]
Rep by its Partner S.Prakash Chand
No.38 Mayor Chittibabu Street
Triplicane, Chennai 5.

Vs

- 1 The Appellate Deputy
Commissioner (CT) East
3rd Floor PAPJM Annex Building
No.1 Greams Road Chennai 6
- 2 The Commercial Tax Officer
Thiruvallikeni Assessment Circle
No.48, Pasumpon Muthuramalinga
Devar Salai, Chennai 28. [Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records on the files of the 1st respondent in S.P. No.324 of 2015 in A.P.V. No.316/2015 dated 9.10.2015 and quash the same being illegal invalid and against the law and direct the 2nd respondent entertain personal bond as security in lieu of bank guarantee till the disposal of the appeal pending before the 1st respondent.

For Petitioner : Mr.D.Vijyakumar
For Respondents : Mr.S.Manoharan Sundaram, AGP

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 09.10.2015 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 08.11.2015 and to furnish bank guarantee in respect of balance tax amount and penalty of Rs.87,942/- on or before 08.11.2015. 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%. 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 08.11.2015.

5. This Court, in catena of decisions, directed the assessee 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.

rg

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

- 1 The Appellate Deputy
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- 2 The Commercial Tax Officer
Thiruvallikeni Assessment Circle
No.48, Pasumpon Muthuramalinga
Devar Salai, Chennai 28.

+ 1 cc to Govt.Pleader SR 65365

+ 1 cc to Mr.D.Vijayakumar, Advocate SR 65037

vs (co)
prk11/12

W.P.No.37823 of 2015



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