IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.38699 of 2015
and M.P.No.1 of 2015

Tvl.K.M.B.Trading Corporation [Petitioner]
Rep. by its Partner K.Shoukathali
No.3/55 Bangalore Main Road
Five Road Salem-636 004.

Vs

1 The Assistant Commissioner(CT)
Arisipalayam Assessment Circle Salem.

2 The Appellate Deputy Commissioner (CT)
C.T.Building Salem [Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records on the files of the 2nd respondent in S.P.No.49/15 in VAT A.P. No.236/15 dated 13.10.2015 and quash the same in so far as the direction to file security in the form of Bank Guarantee or immovable property is concerned only.

For Petitioner : Mr.R.Senniappan
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 2nd respondent, imposing a condition that the petitioner should pay a further amount of Rs.76,058/- on or before 16.11.2015 being 25% of the tax and to furnish a bank guarantee for the balance tax amount, during the currency of appeal proceedings.

3. The petitioner filed an appeal before the 2nd respondent challenging the assessment order passed by the 1st respondent. The appeal was taken on file by the 2nd 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 16.11.2015. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax in the stay petition. 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 13.11.2015 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 on or before 16.11.2015.

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 amount, 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 2nd respondent shall be in force till the disposal of the appeal. No costs. Consequently, connected miscellaneous petition is closed.

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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1 The Assistant Commissioner(CT)
Arisipalayam Assessment Circle Salem.

2 The Appellate Deputy Commissioner (CT)
C.T.Building Salem

+ 1 cc to the Special Govt.Pleader Taxes, SR 66076

+ 1 cc to Mr.R.Senniappan, Advocate SR 65985

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