

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.39838 and 39839 of 2015
and M.P.Nos.1,1 of 2015

M/s.Ritebrand Retail P Ltd.,
represented by its Authorised Signatory
Flat No.32, G Block,
Re-classic Apartment,
New No.68, Baroda Street,
West Mambalam,
Chennai 600 033. [Petitioner in both Wps.]

Vs

1. The Appellate Deputy Commissioner
(CT)- Central,
No.1, Greams Road, Egmore,
Chennai 600 006.
- 2 The Assistant Commissioner (CT),
Kodambakkam Assessment Circle,
Chennai 600 006. [Respondents in both WPs]

Prayer in W.P.No.39838 of 2015: 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 S.P. No.433 of 2015 in A.P.V.542 of 2015, quash the order dated 23.11.2015 in so far as it relates to the furnishing of bank guarantee for the balance of Tax Rs.4,82,168/- and penalty of Rs.14,41,430/-, pending disposal of the appeal in A.P.V.542/2015.

Prayer in W.P.No.39839 of 2015: 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 S.P. No.434 of 2015 in A.P.V.543 of 2015, quash the order dated 23.11.2015 in so far as it relates to the furnishing of bank guarantee for the balance of Tax Rs1,39,265/- and penalty of Rs.1,65,462/-, pending disposal of the appeal in A.P.V.543/2015.

For Petitioner	: Mr.V. Sundareswaran
For Respondents	: Mr.S.Kanmani Annamalai Addl. Govt. Pleader (T)

C O M M O N O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate (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 23.11.2015 on the file of the first 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 first respondent challenging the respective Assessment orders passed by the second respondent. The appeals were taken on file by the first respondent along with stay petitions filed by the petitioner. The appellate authority was pleased to grant an order of stay in all the stay petitions, directing the petitioner to pay another 25% of the respective disputed amount of tax before the Assessing Authority on or before 22.12.2015. 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 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 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 first respondent shall be in force till the disposal of the appeals. No costs. Consequently, connected miscellaneous petitions are closed.

msr

s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

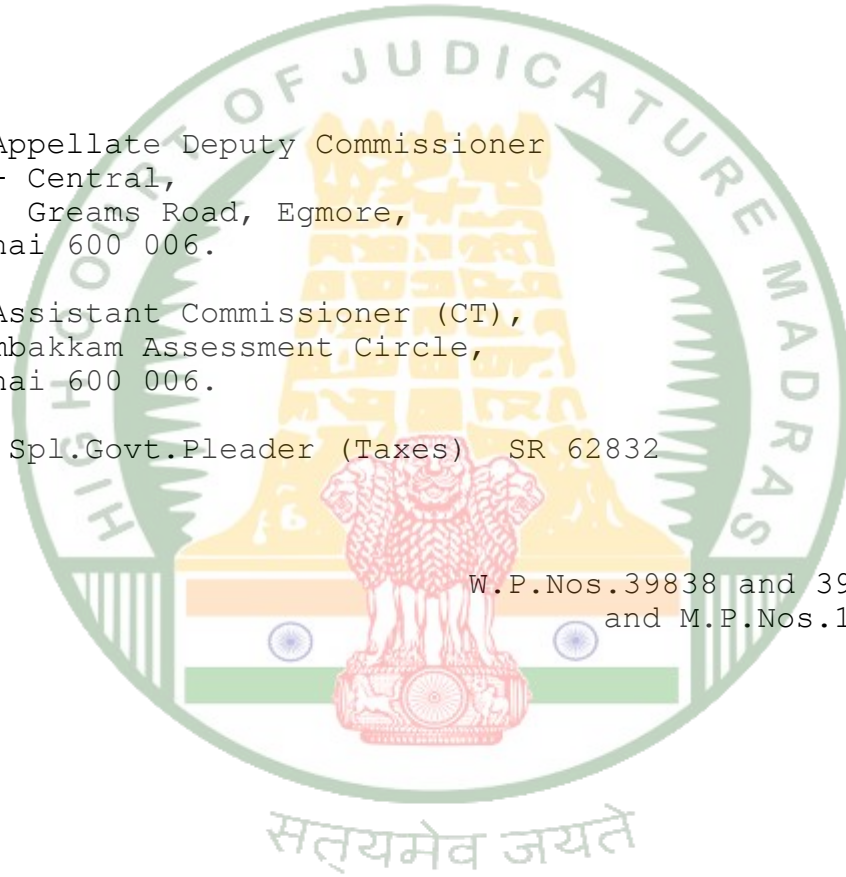
1 The Appellate Deputy Commissioner
(CT)- Central,
No.1, Greams Road, Egmore,
Chennai 600 006.

2 The Assistant Commissioner (CT),
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+ 1 cc to Spl.Govt.Pleader (Taxes) SR 62832

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