

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.7515 and 7516 of 2015 and
M.P. Nos.1 & 1 of 2015

Ashok Leyland Limited
rep. by its Deputy General Manager
Corporate Taxes K.K.Sekar ... Petitioner in both cases

Vs.

1.The Deputy Commissioner (CT) III,
Large Taxpayers Unit,
Dugar Towers, 34, Marshalls Road,
Egmore, Chennai-600 008.

2.The Joint Commissioner (CT) Appeals,
III Floor, C.T.Building Annexe,
Greens Road, Chennai-600 006. ... Respondents in both cases

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records on the file of the second respondent herein in his S.P. Nos.139 and 82/14 in AP.Nos.165 and 95/14 dated 19.02.2015 quashing the same while directing the second respondent to re-dispose the stay application in S.P. Nos.139 and 82/14 arising out of AP. Nos.165 and 95/14.

For Petitioner in both cases : Mr.N.Inbarajan

For Respondents in both cases : Mr.Manoharan Sundaram
Addl.Govt.Pleader (T)

COMMON ORDER

By consent, the writ petitions are taken up for final disposal during the time of admission.

2.These writ petitions are directed against the order dated 19.02.2015 on the file of Joint Commissioner (Commercial Tax) Appeals, Chennai, imposing a condition that the petitioner should produce Bank Guarantee for the penalty amount during the currency of the appellate proceedings.

3.The petitioner filed an appeal before the second respondent challenging the Assessment Order passed by the first respondent. The appeal was taken on file by the first respondent along with a stay petition filed by the petitioner. The Appellate Authority was pleased to grant an order of stay, directing the petitioner to produce valid security in the form of Bank Guarantee in favour of the Assessing Authority concerned on or before 18.03.2015. The said onerous condition is challenged in these writ petitions.

4.I have heard the learned counsel for the petitioner and the learned Additional Government Pleader (Tax) appearing for the respondents.

5.The present writ petitions are confined to the direction with regard to the execution of Bank Guarantee for the balance amount of penalty of Rs.2,02,12,058/- and Rs.3,49,72,939/- respectively.

6.As directed by the second respondent/appellate authority, the petitioner has already complied with the first condition .

7.This Court has passed several orders on earlier occasions substituting the condition with regard to execution of Bank Guarantee by permitting the concerned appellants to produce a personal bond, undertaking to pay the entire amount, in case the appeal is rejected.

8.The petitioner is also similarly placed. I am therefore of the view that the petitioner should be permitted to execute a personal bond instead of Bank Guarantee.

9.In the result, the impugned orders are modified by permitting the petitioner to execute a personal bond undertaking to pay the balance amount of penalty of Rs.2,02,12,058/- and Rs.3,49,72,939/- respectively. The petitioner is directed to execute the personal bond within a period of two weeks from the date of receipt of a copy of this order and in case of execution of such personal bond the order of stay granted by the second respondent would be in force, till the disposal of the statutory appeal.

10.The writ petitions are allowed, as indicated above. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commissioner (CT) III,
Large Taxpayers Unit,
Dugar Towers, 34, Marshalls Road,
Egmore, Chennai-600 008.

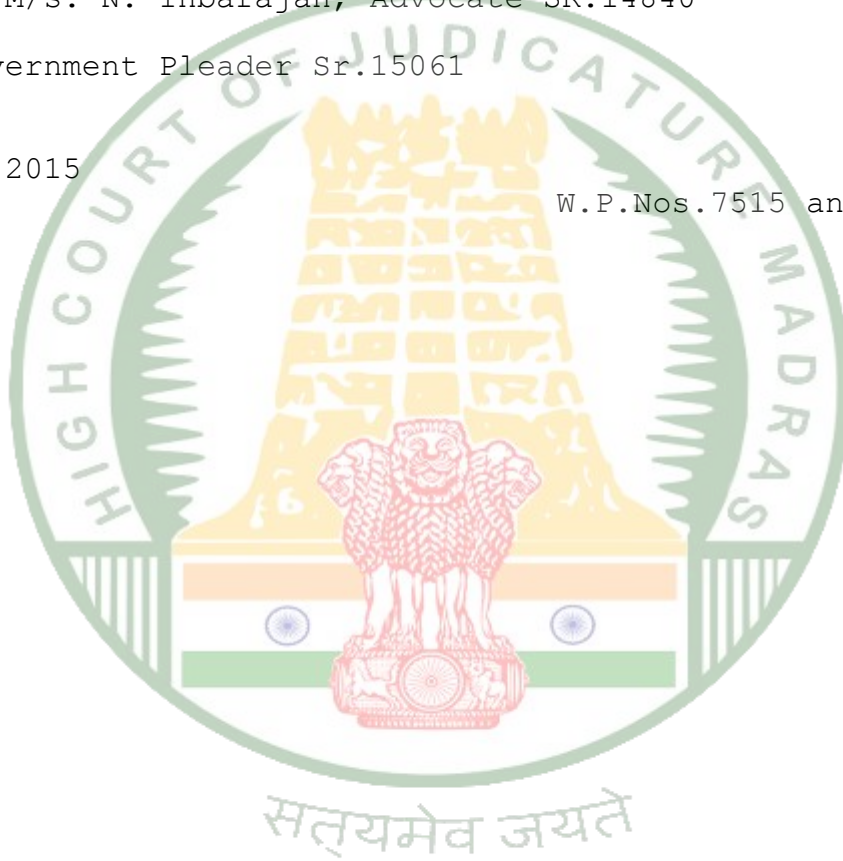
2.The Joint Commissioner (CT) Appeals,
III Floor, C.T.Building Annexe,
Greems Road, Chennai-600 006.

+ 1 cc to M/s. N. Inbarajan, Advocate SR.14840

+ 1 cc Government Pleader Sr.15061

MP(CO)
EU 06.04.2015

W.P.Nos.7515 and 7516 of 2015



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