IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2016

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.2072 and 2073 of 2016
and
WMP Nos.1801 and 1802 of 2016

M/s.Rajalakshmi Ever Silver Mart
represented by its Proprietor
Mr.R.Anand Babu ...Petitioner in WP.2072/2016

M/s.Sri Rajalakshmi Eversilver Mart
represented by its Proprietor
Mr.M.Palani Raja ...Petitioner in WP.2073/2016

Vs

The Appellate Deputy Commissioner (CT),
Cuddalore 607 001. ...Respondent in both WPs

WP.No.2072/2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the records of the respondent in S.P.No.119/2015 in AP.365/2015 quash the order dated 21.12.2015 insofar it relates to the furnishing of bank guarantee for the balance of tax Rs.6,01,011/- and penalty of Rs.17,69,350/- pending disposal of the appeal in AP.No.365/2015.

WP.No.2073/2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the records of the respondent in S.P.No.118/2015 in AP.364/2015 quash the order dated 21.12.2015 insofar it relates to the furnishing of bank guarantee for the balance of tax Rs.5,23,611/- and penalty of Rs.15,37,747/- pending disposal of the appeal in AP.No.364/2015.

For Petitioners : Mr.V.Sundareswaran

For Respondent : Mr.V.Haribabu,
Additional Government Pleader

COMMON ORDER

Heard the learned counsel for the petitioners and the learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, both the writ petitions are taken up for final disposal.

2. The petitioners have come forward with these writ petitions challenging the orders dated 21.12.2015 passed by the respondent, imposing a condition that the petitioners should furnish bank guarantee for the balance tax amount along with penalty in the prescribed manner in fulfilment of the conditions stipulated in Rule 14(15) read with the proviso to section 52(4) of the Tamil Nadu Value Added Tax Act 2006 during the currency of appeal proceedings.

3. The petitioners filed appeals before the respondent challenging the Assessment orders passed by the Assessing Officer. The appeals were taken on file by the respondent along with stay petitions filed by the petitioners. In the stay petitions, the Appellate Authority was pleased to grant an order of stay directing the petitioners to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 21.01.2016. The Appellate Authority also imposed a further condition directing the petitioners to furnish bank guarantee in respect of balance amount of tax and penalty in the stay petitions. The said onerous condition is challenged in both these writ petitions.

4. The petitioners have paid 25% of the disputed tax for the assessment year 2012-13 at the time of filing the appeals. Further, as directed by the Appellate Authority, the petitioners also made payment of another 25% of the disputed amount on 18.01.2016 and produced the proof of payment. The only grievance of the petitioners 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 assessees to execute a personal bond in lieu of furnishing bank guarantee.

6. Therefore, both these writ petitions are disposed of with a direction to the petitioners to execute personal bond for the balance tax amount and penalty for the assessment year 2012-13 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

respondent shall be in force till the disposal of the appeals. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Appellate Deputy Commissioner (CT),
Cuddalore 607 001.

+2cc's to Mr.V.Sundareswaran, Advocate, S.R.No.3834
+1cc to the Special Government Pleader(Taxes), S.R.No.3670

W.P.Nos.2072 and 2073 of 2016

GJ(CO)
CA(02/02/2016)