

In the High Court of Judicature at Madras

Dated : 20.7.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.25089 of 2016 & WMP.No.21485 of 2016

M/s.Kundan Rice Mill Limited,
rep.by its Managing Director
Sowcarpet, Chennai

...Petitioner

Vs

1.The Appellate Deputy Commissioner
(CT) (FAC), North Division,
Greens Road, Chennai.

2.The Assistant Commissioner (CT)
(FAC), NSC Bose Road Assessment
Circle, Chennai.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in SP.No.56/16 in VAP.No.79/15 dated 14.6.2016, quash the same and further direct the 1st respondent to grant an absolute stay for balance of tax and penalty amount without insisting upon furnishing of security in the form of bank guarantee till the pending disposal of the appeal on the files of the 1st respondent.

For Petitioner : Mr.C.Praveen Kumar Jain

For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader

ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 on the file of the second respondent. The petitioner filed an appeal before the first respondent against the order of assessment passed by the second respondent. In this writ petition, the petitioner has challenged the order passed by the first respondent while granting an order of stay. By the impugned order, the first respondent directed the petitioner to pay another 25% of the disputed tax and to furnish bank guarantee

for the balance of tax and entire penalty within a time frame. It is stated that the petitioner paid another 25% of the disputed tax as per the order dated 14.6.2016. The petitioner is aggrieved by the condition of furnishing bank guarantee for the balance of tax and entire penalty.

3. The learned Additional Government Pleader submits that the petitioner may be permitted to execute personal bond instead of bank guarantee as directed by the first respondent.

4. Having regard to the submission made by the learned counsel on either side, the writ petition is disposed of with a direction to the petitioner to execute a personal bond for the balance of tax and entire penalty, in lieu of bank guarantee, within a period of two weeks from the date of receipt of a copy of this order. In all other aspects, the impugned order passed by the first respondent will remain unaltered. No costs. Consequently, the above WMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Appellate Deputy Commissioner (CT) (FAC),
North Division,
Grems Road, Chennai.

2.The Assistant Commissioner (CT) (FAC),
NSC Bose Road Assessment
Circle, Chennai.

+1 cc to Special Government Pleader sr.41093
+1 cc M/s.C.Rekha kumari Advocte sr.41863

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