

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26915 of 2016

and W.M.P.No.23165 of 2016

M/s.RCL Retail Private Limited
rep. by its Managing Director
No.55, Hunters Road
Purasaiwalkam
Chennai-600 007. ...Petitioner

Vs

- 1.The Appellate Deputy Commissioner (CT)
Central Division
C.T.New Building
3rd Floor
Greams Road
Chennai.
- 2.The Assistant Commissioner (CT)
Choolai Assessment Circle
No.10, Greams Road
Chennai-112. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in SP No.43/16 in AP VAT No.125/16, dated 24.06.2016 and quash the same and further direct the 1st respondent to grant an absolute stay for the balance of tax and entire penalty amount without insisting upon furnishing of bank guarantee till the pending disposal of the appeal on the file of the 1st respondent and pass such other orders as this Court may deem fit and proper in the facts and circumstances of the case.

For Petitioner : Ms.C.Rekha Kumari

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

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O R D E R

Heard Ms.C.Rekha Kumari, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional

Government Pleader, accepting notice on behalf of the respondents and with the consent of learned counsel appearing on either side, this Writ Petition is taken up for final disposal.

2. The petitioner has filed this Writ Petition challenging the order of the 1st respondent in SP No.43/16 in AP VAT No.125/16, dated 24.06.2016, imposing a condition that the petitioner should furnish a bank guarantee for the balance tax amount and entire penalty of Rs.31,15,312/-, during the currency of the appeal proceedings.

3. The petitioner filed an appeal before the 1st respondent challenging the Assessment Order passed by the 2nd respondent. The appeal was taken on file by the 1st respondent along with stay petition filed by the petitioner. The Appellate Authority was pleased to grant an order of stay in the said petition, directing the petitioner to furnish bank guarantee in respect of the balance amount of tax and penalty of Rs.31,15,312/- on or before 25.07.2016.

4. According to the learned counsel for the petitioner, the said condition is an onerous and hence, seeks interference of this Court.

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 Petition is disposed of, with a direction to the petitioner to execute personal bond for the balance amount of tax and entire penalty of Rs.31,15,312/-, 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 first respondent shall be in force till the disposal of the appeal. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1.The Appellate Deputy Commissioner (CT)
Central Division
C.T.New Building
3rd Floor
Greams Road
Chennai

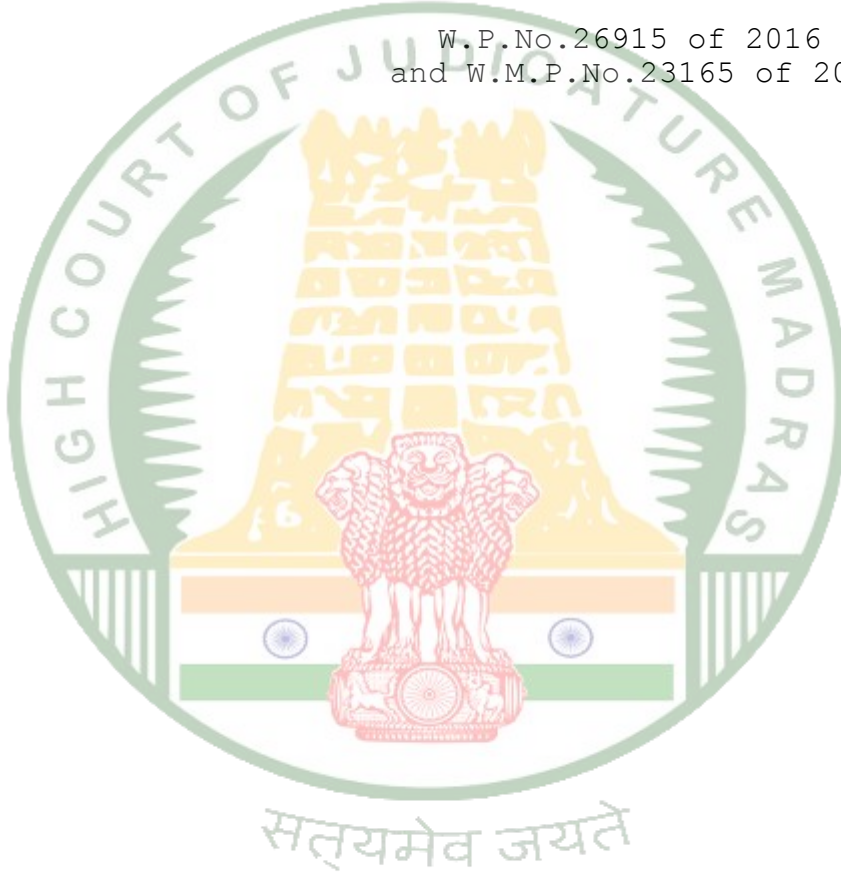
2.The Assistant Commissioner (CT)
Choolai Assessment Circle
No.10, Greams Road
Chennai-112.

+1 cc to Mr.C.Rekha Kumar,advocate,sr.43530

+1 cc to Spl.Govt.Pleader,sr.43859.

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