IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2016

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.277 of 2016
and
WMP Nos.165 and 166 of 2016

M/s.Padma Pharma Agencies
represented by its Proprietor
V.Namachivayam ... Petitioner

Vs

1. The Commercial Tax Officer (FAC)
Vellore (South) Assessment Circle,
Vellore, Vellore District.

2. The Appellate Deputy Commissioner (CT),
Commercial Taxes Building,
Vellore, Vellore District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records on the file of the second respondent made in S.P.No.209/2015 in APV.473/2015 dated 14.12.2015 and quash the same insofar as directing the petitioner to furnish security for the balance of disputed taxes and penalty due for the assessment year 2013-2014 under the TNVAT Act, 2006.

For Petitioner : M/s.R.Hemalatha
For Respondents : Mr.S.Manoharan Sundaram, AGP(T)

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), who took notice for the respondents and with their consent, this writ petition is taken up for final disposal.

2. The petitioner has come forward with this writ petition challenging the order dated 14.12.2015 passed by the second respondent, imposing a condition that the petitioner should furnish a 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 on or before 07.01.2016 during the currency of appeal 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 second respondent along with stay petition filed by the petitioner. In the stay petition, the Appellate Authority was pleased to grant an order of stay directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 07.11.2015. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax and penalty in the stay petition. Since the petitioner was unable to comply with the said condition within the stipulated time, they filed a petition for extension of time. In the said petition, the Appellate Authority was pleased to extend the time for furnishing the bank guarantee by 60 days i.e. upto 07.01.2016. The said onerous condition is challenged in the present writ petition.

4. The petitioner has paid 25% of the disputed tax for the assessment year 2013-14 at the time of filing the appeal. Further, as directed by the Appellate Authority, the petitioner also made payment of another 25% of the disputed amount on 06.11.2015 and produced the 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 assessees to execute a personal bond in lieu of furnishing bank guarantee.

6. Therefore, this writ petition is disposed of with a direction to the petitioner to execute personal bond for the balance tax amount and penalty for the assessment year 2013-14 in lieu of furnishing bank guarantee, in APV No:473/15 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 second respondent shall be in force till the disposal of the appeal. No costs. Consequently, connected miscellaneous petitions are closed.

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s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Commercial Tax Officer (FAC)
   Vellore (South) Assessment Circle,
   Vellore, Vellore District.

2. The Appellate Deputy Commissioner (CT),
   Commercial Taxes Building,
   Vellore, Vellore District.

+ 1 cc to M/s.R.Hemalatha, Advocate SR 661,

+ 1 cc to Spl.Govt.Pleader SR 1236

mp(co)
prk25/1 W.P.No.277 of 2016