IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2016

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.2776 of 2016
and
WMP No.2313 of 2016

Sri Krishna Trading Company,
(Represented by its Proprietor,
S.Vaithyanathan),
New No.152, Old No.500,
Gandhi Road,
Kancheepuram 631 501. ... Petitioner

Vs

1. The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Kancheepuram 631 501.

2. The Appellate Deputy Commissioner (CT),
Chennai (South) Division,
III Floor, C.T. Building Annexe,
No.1, Greams Road,
Chennai 600 006. ... 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 herein in S.P.No.193 of 2016 in A.P.No.259/2015-VAT, dated 31.12.2015, quashing the same in so far as it results in direction to furnish Bank Guarantee for the balance amount of Rs.89,308/- on or before 30.01.2016.

For Petitioner : Mr.N.Inbarajan
For Respondents : Mr.V.Haribabu, 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 31.12.2015 passed by the second respondent, imposing a condition that the petitioner should

furnish bank guarantee for the balance tax amount in the prescribed manner in fulfilment of the conditions stipulated in Rule 14(15) read with the proviso to section 51(4) of the Tamil Nadu Value Added Tax Act 2006 on or before 30.01.2016 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 30.01.2016. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax in the stay petition. 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 08.01.2016 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.

5. This Court, in catena of decisions, directed the assessees 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 tax amount for the assessment year 2013-2014 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 second respondent shall be in force till the disposal of the appeal. No costs. Consequently, connected miscellaneous petition is closed.

rk

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To
1. The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Kancheepuram 631 501.

2. The Appellate Deputy Commissioner (CT),
Chennai (South) Division,
III Floor, C.T. Building Annexe,
No.1, Greams Road,
Chennai 600 006.

+ 1 cc to M/s.N.Inbarajan, Advocate SR 4540

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 4948

rsk(co)
prk10/2

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