

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.29124 of 2016  
and  
W.M.P.No.25171 of 2016

M/s.Deepak Chains Pvt Ltd.,  
Rep by its Managing Director  
No.20-21, Veerappan Street, 1<sup>st</sup> Floor  
Chennai - 600 079. .. Petitioner

..Vs..

- 1.The Appellate Deputy Commissioner (CT) (FAC)  
North Division  
C.T.Building Annexe 3<sup>rd</sup> Floor  
Greams Road, Chennai.
- 2.The Commercial Tax Officer  
Peddunaickenpet Assessment Circle  
Chennai. .. Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in SP.No.70/16 in APV.No.105/16, dated 15.07.2016 and quash the same and further direct the first respondent to grant an absolute stay for balance of tax and entire 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 first respondent.

For Petitioner : Mr.C.Rekha Kumari

For Respondents: Ms.Vasudha Thiagarajan, A.G.P.,

ORDER

Heard Ms.C.Rekha Kumari, learned counsel appearing for the petitioner and Ms.Vasudha Thiagarajan, 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 1<sup>st</sup> respondent in SP No.70/16 in APV.No.105/16, dated 15.07.2016, imposing conditions that the petitioner shall pay a further amount of Rs.74,750/- being another 25% of the disputed Tax and furnish a bank guarantee for the balance tax amount and penalty of Rs.3,01,961/-, during the currency of the appeal proceedings.

3.The petitioner filed an appeal before the 1<sup>st</sup> respondent challenging the Assessment Order passed by the 2<sup>nd</sup> respondent. The appeal was taken on file by the 1<sup>st</sup> 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 pay a further amount of Rs.74,750/- being another 25% of the disputed Tax and to furnish bank guarantee in respect of the balance amount of tax and penalty of Rs.3,01,961/- on or before 14.08.2016.

4.According to the learned counsel for the petitioner, the petitioner has complied with one condition viz., paying a further amount of Rs.74,750/- being another 25% of the disputed Tax. However, the other condition pertaining to furnishing of bank guarantee is an onerous one and hence, the petitioner seeks for 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 penalty of Rs.3,01,961/-, 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) (FAC)  
North Division  
C.T.Building Annexe 3<sup>rd</sup> Floor  
Greens Road, Chennai.

2.The Commercial Tax Officer  
Peddunaickenpet Assessment Circle  
Chennai.

+1 cc to Spl.Govt.Pleader,sr.48948.

cnr(co)  
krd 19/9

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