IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.30787 of 2016
& W.M.P.No.26683 of 2016

Universal Shoe Company,
rep.by its Partner,
V.Arshad Ahmed,
No.119/12, 121-A, Thuthipet,
Vaniyambadi-635 811 ... Petitioner

Vs.

1 Appellate Deputy Commissioner
(CT) Vellore
C.T.Building
Bharathiyar Salai
Vellore-632 001.

2.Commercial Tax Officer(Main),
Gudiyatham (WEST) Assessment Circle,
No.98/122, Gandhi Road,
Nadupettai,
Gudiyatham-632 602 ... Respondent

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus to call for the impugned proceedings of the 1st respondent passed in S.P.No.138 of 2016 in APV 520 of 2016, dated 03.08.2016, and to quash the same in so far as directing the petitioner to furnish Bank Guarantee for balance amount of Rs.83,206/- and further direct the 1st respondent to accept personal bond for the sum of Rs.83,206/-, instead of Bank Guarantee pending disposal of appeal in APV No.520 of 2016.

For Petitioner : Mr.N.Murali

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

O R D E R

The writ petition is directed against the order of the first respondent in S.P.No.138 of 2016 in APV 520 of 2016, dated 03.08.2016, imposing a condition that the petitioner should pay another 25% of the disputed tax on or before 1.9.2016 and also furnish bank guarantee for the remaining tax balance Rs.83,206/-, during the currency of the appeal proceedings.

2. The petitioner filed appeal before the first respondent challenging the assessment order passed by the second respondent. The appeal was taken on file by the first respondent along with the stay petition filed by the petitioner. The petitioner paid 25% of the tax dues at the time of filing the appeal. The Appellate Authority granted stay by directing the petitioner to pay another 25% of the disputed tax (Rs.41,604/-) on or before 1.9.2016 and also furnish bank guarantee for the remaining tax balance of Rs.83,206/-. This condition is challenged as onerous condition in this writ petition.

3. Heard Mr.N.Murali, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondents.

4. Admittedly, the petitioner has paid 25% of the disputed tax at the time of filing the appeal. However, as directed by the Appellate Authority, the petitioner is required to pay another 25% of the disputed tax (Rs.41,604/-) on or before 1.9.2016 and furnish bank guarantee for the remaining tax balance. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the said amount.

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 the remaining tax dues, in lieu of furnishing bank guarantees, within a period of two weeks from the date of receipt of a copy of this order. On such executing the personal bonds, the order of stay granted by the first respondent shall be in force till

the disposal of the appeal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msk
To
1 Appellate Deputy Commissioner
(CT) Vellore
C.T.Building
Bharathiyar Salai
Vellore-632 001.

2 Commercial Tax Officer(Main),
Gudiyatham (WEST) Assessment Circle,
No.98/122, Gandhi Road,
Nadupettai,
Gudiyatham-632 602

1 cc to M/s.N.Murali, Advocate, sr.49905

W.P.No.30787 of 2016

nr co
kra 22.09.2016