

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.36603 of 2016

and

WMP No.31475 of 2016

M/s.RCL Retail Pvt.Ltd.,
Rep.by its Managing Director,
No.55, Hunters Road,
Purasaiwalkam,
Chennai-600007.

... Petitioner

Vs.

1.The Appellate Deputy Commissioner (CT),
General Division,
New Building (Annex), IIIrd Floor,
Greems Road, Chennai - 06.

2.The Assistant Commissioner (CT),
Choolai Assessment Circle,
2nd Floor, Palaniappa Building,
No.10, Greems Road, Choolai,
Chennai - 112.

... Respondents

PRAYER: Writ Petition is 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.47/16 in VAP No.137/16, dated 26.9.2016 and quash the same and further direct the first respondent to grant an absolute stay for balance of tax and 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 Petitioners : Ms.C.Rekha Kumari
For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Ms.C.Rekha Kumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate, who accepts notice for the respondents and with their consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner filed an 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 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 of tax and penalty amount on or before 21.10.2016.

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

4. This Court, in catena of decisions, directed the assessee to execute a personal bond in lieu of furnishing bank guarantee.

5. Therefore, the Writ Petition is disposed of, with a direction to the petitioner to execute personal bond for the balance of tax and entire penalty, 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. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar

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Sub Assistant Registrar

asvm

copy to:

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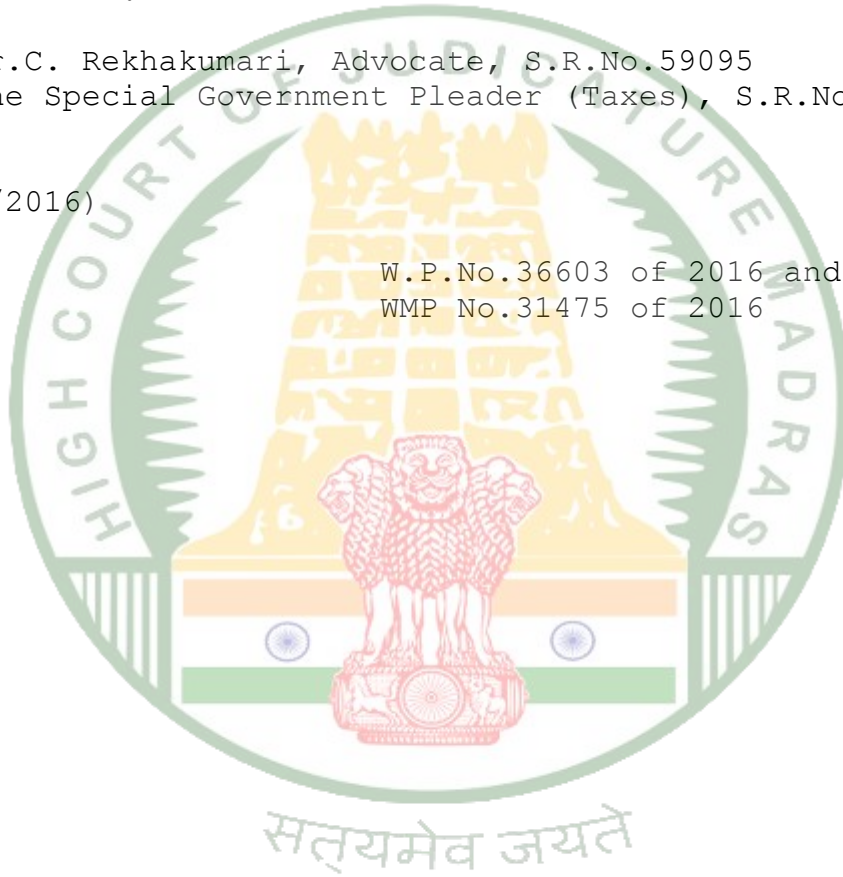
+1cc to Mr.C. Rekhakumari, Advocate, S.R.No.59095

+1cc to the Special Government Pleader (Taxes), S.R.No.59059

UG (CO)

md (12/11/2016)

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