IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.43381 of 2016
and
W.M.P.No.37243 of 2016

Ashok Leyland Ltd.
Rep. By its Deputy General Manager
Corporate Taxes,
K.K.Sekar ... Petitioner

vs.

1. The Deputy Commissioner (CT)-III,
   Large Tax Payers Unit,
   34, Marshall Road,
   Egmore,
   Chennai - 600 008.

2. The Joint Commissioner (CT),
   CT Annexe Building, III Floor,
   Greams Road,
   Chennai - 600 0006. ... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari fied mandamus, calling for the records on the file of the second respondent herein in S.P.No.112/2016 in A.P.147/2016 dated 15.11.2016 arising out of A.P.No. 147/2016 (TIN:2014-15), quashing the same, in so far as it results in direction to furnish bank guarantee for the balance amount of Rs.28,82,59,965/- on or before 15.12.2016.

For Petitioner : Mr.N.Prasad

For Respondents : Mr.Kanmani Annamalai,
Additional Govt. Pleader (T).

ORDER

1. Issue notice. Mr.Kanmani Annamalai, accepts notice on behalf of the respondents. With the consent of counsel for parties, the writ petition is taken up for final disposal.

2. The petitioner, admittedly, has filed a statutory appeal which is pending adjudication before the second respondent. The petitioner had filed an application for grant of stay on collection of balance amount of disputed tax.

3. It is the petitioner's case that at the stage of institution of the appeal, 50% of the disputed tax stood deposited. The petitioner is, thus aggrieved by the condition imposed in the impugned order, which requires it to furnish a bank guarantee for the balance amount of disputed tax and penalty equivalent to Rs.28,82,59,965/- (Rupees Twenty Eight Crores Eighty Two Lakhs Fifty Nine Thousand Nine Hundred and Sixty Five only).

4. The petitioner says that it is willing to furnish a personal bond for the balance disputed tax and penalty as against the bank guarantee.

5. In support of his submission, learned counsel for the petitioner relies upon an order dated 17.06.2013, passed in W.P.No.8641 of 2013 titled: Vijayalakshmi Corporation Vs. The Appellate Deputy Commissioner (CT)-II and another.

6. I have asked Mr.Kanmani Annamalai, as to whether, he would have any objection to the modification in the impugned order as sought for by the petitioner.

6.1. Mr.Kanmani Annamalai, says that the approach adopted in Vijayalakshmi's case could be followed in this case as well.

7. Accordingly, the impugned order is modified to the extent that instead of a bank guarantee, the petitioner would furnish a personal bond for the balance amount of disputed tax and the entire penalty amount, within two (2) weeks from the date of receipt of a copy of the order. Upon such personal bond being furnished, there shall be a stay qua the order impugned in the appeal.

8. The Writ Petition is disposed of in terms of the aforesaid directions. There shall, however, be no order as to costs. Resultantly, the connected application is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Deputy Commissioner (CT)-III,
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   Chennai - 600 008.

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ks(CO)
rs(05/01/2017)

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