

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.44014 of 2016

Aluminium Combines represented

By its Partner, Prashant Mohta

... Petitioner

Vs.

1 The Appellate Deputy Commissioner-(CT) North
Commercial Taxes Building Complex,
No.1, Greams Road, Third Floor,
Chennai – 600 006.

2 The Commercial Tax Officer
Esplanade Assessment Circle,
116 Angappa Naicken Street,
Second Floor, Chennai – 1.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in SP No.106/2016 in APV.155/2016 and quash, direct the 1st respondent the order dated 22.11.2016 in so far as the condition of furnishing of security for the balance of disputed tax of Rs.2,94,612/- in the form of bank guarantee is concerned pending disposal of the appeal in APV.155/2016.

For Petitioner : Mr.R.Kumar

For Respondents : Mr.K.Venkatesh

Government Advocate

ORDER

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

2.The petitioner is aggrieved by the fact that vide order dated 22.11.2016, its application for grant of stay has been disposed of with a direction that it would have to furnish a Bank Guarantee for the balance disputed tax and penalty.

3.Learned counsel for the petitioner says that the petitioner has already paid up till now, 50% of the disputed tax. Learned counsel in support of his submission that the condition imposed for furnishing of Bank Guarantee is onerous and should be substituted with a direction to furnish a personal bond, relies upon the order dated 01.12.2016, passed in W.P.Nos.42238 to 42240 of 2016.

4.I have heard the learned counsel appearing for the parties.

5.The record shows that the petitioner's appeal is pending before the first respondent. It is not disputed by Mr.Venkatesh, learned

Government Advocate appearing for the respondents that 50% of the disputed tax has been paid.

6.In these circumstances, the impugned order is modified to the extent that the direction contained therein to furnish Bank Guarantee for the balance sum of the disputed tax and penalty shall stand substituted with a direction to furnish a personal bond.

7.Accordingly, upon the petitioner furnishing a personal bond for the disputed sum of balance tax and the entire penalty, within a period of one week from the date of receipt of a copy of the order, there shall be a stay on the operation of the order-in-original, which is impugned in the appeal pending before the first respondent. The first respondent will take up the pending appeal for hearing, if the condition of furnishing a personal bond is fulfilled as indicated above.

8.The writ petition is disposed of in the aforesaid terms. No costs.

23.12.2016

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Index: Yes/ No
Internet: Yes/ No

RAJIV SHAKDHER,J.
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To

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