IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.863 and 864 of 2016
and
WMP.Nos.673 and 674 of 2016

Tvl. Perfect Engineers
represented by its Proprietor
Laxmi Kanta Tolasariya ...Petitioner in both WPs

Vs

1. The Appellate Deputy Commissioner (CT) North (FAC),
   C.T. Buildings, Annexe 3rd Floor,
   Greams Road,
   Chennai 600 006.

2. The Commercial Tax Officer,
   Broadway Assessment Circle,
   No.199, Thambu Chetty Street,
   Chennai 600 001. ... Respondents in both WPs

WP.No.863/2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent and quash the impugned proceedings in S.P.No.226/2015 in APV.260/2015 dated 18.12.2015 insofar as condition of filing of bank guarantee for the balance amount of Rs.10,37,713/-.

WP.No.864/2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent and quash the impugned proceedings in S.P.No.225/2015 in APV.259/2015 dated 18.12.2015 insofar as condition of filing of bank guarantee for the balance amount of Rs.7,19,516/-.

For Petitioner : Mr.P.R.Kumar in both WPs

For Respondents : Mr.S.Kanmani Annamalai, AGP(T) in both WPs

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), who took notice for the respondents and with their consent, both the writ petitions are taken up for final disposal.

2. The petitioner has come forward with the present writ petitions challenging the orders dated 18.12.2015 passed by the first respondent, imposing a condition that the petitioner should furnish a bank guarantee for the balance tax amount along with penalty in the prescribed manner in fulfilment of the conditions stipulated in Rule 14(15) read with the proviso to section 52(4) of the Tamil Nadu Value Added Tax Act 2006 on or before 17.01.2016 during the currency of appeal proceedings.

3. The petitioner filed appeals before the first respondent challenging the Assessment orders passed by the second respondent relating to the years 2009-10 and 2010-11. The appeals were taken on file by the first respondent along with stay petitions filed by the petitioner. In the stay petitions, the Appellate Authority was pleased to grant an order of stay directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 17.01.2016. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax and penalty in the stay petitions. The said onerous condition is challenged in both the writ petitions.

4. The petitioner has paid 25% of the disputed tax for the assessment years in question at the time of filing the appeals. Further, as directed by the Appellate Authority, the petitioner also made payment of another 25% of the disputed amount. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the balance tax amount and penalty.

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

6. Therefore, both the writ petitions are disposed of with a direction to the petitioner to execute personal bond for the balance tax amount and penalty for the assessment years 2009-10 and 2010-11 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 appeals. No costs. Consequently, connected miscellaneous petitions are closed.

sd/-
Assistant Registrar(Cs-IV)

/TRUE COPY/

Sub-Assistant Registrar

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To

1. The Appellate Deputy Commissioner (CT) North (FAC),
   C.T. Buildings, Annexe 3rd Floor,
   Greams Road, Chennai 600 006.

2. The Commercial Tax Officer,
   Broadway Assessment Circle,
   No.199, Thambu Chetty Street,
   Chennai 600 001.

+1 CC to MR.P.R.Kumar Advocate. SR.NO. 1697
+1 CC to MR.P.R.Kumar Advocate. SR.NO. 1698
+1 CC to Special Govt.Pleader(Taxes). SR.NO. 2018

W.P.Nos.863 and 864 of 2016

CO-SKV
JD 21/01/2016