



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2016

CORAM:

THE HONOURABLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P.(MD)No.1025 of 2016

WEB COPY

TVL.Luv Kush Electricals,
represented by its Proprietor
Sripal Kumar Jain,
12, Goodshed Street,
Madurai.

... Petitioner

Vs.

1.The Appellate Deputy Commissioner (CT) (FAC),
Madurai (North),
Madurai.

2.The Commercial Tax Officer,
Nethaji Road, Assessment Circle,
Madurai.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in S.P.No.59/2015 in VAT AP No.354/2015 dated 10.12.2015 on the file of the 1st respondent and quash the same as illegal and direct the 2nd respondent to accept the personal bond to be executed by the petitioner in lieu of security.

For Petitioner : Mr.S.Karunakar
For Respondents : Mr.N.S.Karthikeyan, AGP

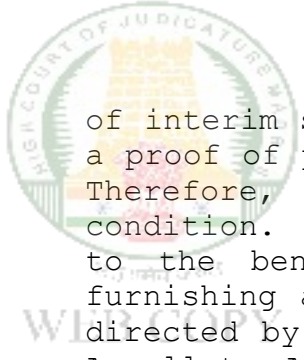
O R D E R

By consent of both parties, the Writ petition itself is taken up for final disposal, in view of the fact that the matter is squarely covered by the earlier decision made by this Court in favour of the petitioner.

2.The petitioner is aggrieved against the orders of the 1st respondent, dated 10.12.2015, insofar as imposing a condition that the petitioner should furnish security bond or bank guarantee for a sum of Rs.1,28,363/-(Tax Rs.64,558/- + Penalty Rs.63,805/-) on or before 09.01.2016, while granting an order of interim stay by the Appellate Authority.

3.According to the petitioner, in similar matters, this Court permitted furnishing of personal bond instead of security bond or bank guarantee. The above said contention of the learned counsel appearing for the petitioner is not disputed by the learned Additional Government Pleader appearing for the respondents. However, he submitted that the first condition of the stay order for payment of Rs.24,212/- towards 25%, of the disputed tax is yet to be realized.

4.It is not in dispute that the petitioner has complied with one of the condition imposed by the Appellate Authority while granting an order



of interim stay namely, payment of a sum of Rs.24,212/-. To that effect, a proof of payment dated 30.12.2015, which is produced before this Court. Therefore, as on today, the petitioner has complied with the first condition. Insofar as, the second condition is concerned, he is entitled to the benefit of the orders already passed in similar matters by furnishing a personal bond instead of security bond or bank guarantee as directed by the Appellate Authority. Therefore, the order passed by the Appellate Authority impugned in this Writ petition is modified only to the effect that the petitioner shall furnish personal bond for balance amount, within a period of two weeks from the date of receipt of a copy of this order and such personal bond shall be in force till the disposal of appeal. In all other aspects, the order passed by the Appellate Authority impugned in this Writ petition stands. It is made clear that on furnishing of such personal bond, the Appellate Authority is directed to dispose of the appeals on merits and in accordance with law. It is also made clear that on furnishing of such personal bond, the stay granted by the Appellate Authority shall continue till the disposal of the appeal.

5. With the above direction, the Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

1. The Appellate Deputy Commissioner (CT) (FAC),
Madurai (North),
Madurai.

2. The Commercial Tax Officer,
Nethaji Road, Assessment Circle,
Madurai.

+1 CC to the Special Government Pleader, SR No.3004/16

W.P. (MD) No.1025 of 2016
19.01.2016

ssl

SH/SKS-RR:01.02.2016:2P/4C