

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. No. 8057 of 2017

and

W.M.P. No.8817 of 2017

Ashok Leyland Limited
Represented by its Deputy General Manager
Corporate Taxes,
K.K.Sekar
No.1, Sardar Patel Road,
Guindy, Chennai 600 032.Petitioner

Vs.

1. The Deputy Commissioner (CT) III
Large Taxpayers Unit,
Dugar Towers,
34, Marshalls Road,
Egmore, Chennai 600 008
2. The Joint Commissioner (CT) (Appeals)
III Floor, CT Building Annexe,
Greens Road, Chennai 6.Respondents

Prayer: This writ petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the Second Respondent in SP.No.32/2017 in A.P.31/2017 dated 09.03.2017 arising out of A.P.No.31/2017 (CST 2015-16), quashing the same, in so far as it relates to the direction to furnish Bank guarantee for the balance amount of Rs.11,28,25,520/- on or before 07.04.2017.

For Petitioner : Mr.N.Inbarajan
For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

Heard Mr.Inbarajan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax), appearing for the respondents.

2. The petitioner is aggrieved against the order of the second respondent dated 09.03.2017 only insofar as it relates to the direction to furnish bank guarantee for the balance of tax of Rs.11,28,25,520/- (Rupees eleven crores twenty eight lakhs twenty five thousand five hundred and twenty only).

3. The learned counsel for the petitioner submitted that the petitioner has already paid 50% of the tax liability and therefore, the petitioner may be permitted to furnish personal bond instead of the bank guarantee, as directed by the second respondent in the impugned proceedings.

4. The learned Additional Government Pleader (Tax) appearing for the respondents, based on instructions submitted that the petitioner has paid a total sum of Rs.10,02,89,350/- (Rupees ten crores two lakhs eighty nine thousand and three hundred fifty only) towards the part of tax liability.

5. It is seen that the petitioner filed a statutory appeal before the second respondent, challenging the order of assessment passed by the first respondent on 27.01.2017 in respect of assessment year 2015-16. Pending appeal, the petitioner sought for interim stay of collection of the tax amount. In the said application, the second respondent passed the impugned order by imposing two conditions for grant of stay. Insofar as the first condition is concerned, it is stated by the learned counsel for the petitioner that the said condition has been complied with, by paying 25% of balance of tax. The said fact is also not disputed by the learned Additional Government Pleader. The only grievance of the petitioner before this Court is against the second condition viz., furnishing of bank guarantee for balance of tax.

6. This Court has already considered similar request made by other Assesseees and permitted them to furnish personal bond instead of bank guarantee by considering the fact that they have complied with the other condition of paying the tax liability. Therefore the petitioner in this case is also entitled to similar relief.

7. Considering the above stated facts and circumstances, this writ petition is partly allowed and the impugned order is modified only to the extent where direction has been given to

furnish bank guarantee instead of which the petitioner shall furnish the personal bond for the full value and keep the bond alive till the disposal of the appeal before the first respondent. The petitioner is directed to furnish the bond within a period of two weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Commissioner (CT) III
Large Taxpayers Unit,
Dugar Towers,
34, Marshalls Road,
Egmore, Chennai 600 008

2. The Joint Commissioner (CT) (Appeals)
III Floor, CT Building Annexe,
Greens Road, Chennai 6.

+1cc to Mr.N. Inbarajan, Advocate, S.R.No.21330

sai(CO)
md(10/04/2017)

W.P. No.8057 of 2017

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