IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.7155 of 2017
and
WMP.No.7771 of 2017

Sundram Fasteners Limited
Represented by its Chief Financial Officer
S.Meenakshisundaram ... Petitioner

Vs.

1. The Deputy Commissioner (CT)-IV
Large tax Payers Unit
34, Marshalls Road, Egmore,
Chennai-600 008.

2. The Joint Commissioner (CT) (Appeals)
PAPJM Building Annexe,
Greams Road, Chennai-600 006. ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to call for the records on the files of the second respondent herein in S.P.No.24/2017 in A.P.No.21/2017 (Extension) dated 17.03.2017, confirming the earlier proceedings in S.P.No.24/2017 in A.P.No.21/2017, dated 28.02.2017, quashing the same, while directing the second respondent herein to re-dispose the stay application filed by the petitioners.

For Petitioner: Mr.K.A.Parthasarathy
for M/s.N.Inbarajan

For Respondents: Mr.K.Venkatesh,
Government Advocate

O R D E R

Mr.K.Venaktesh, learned Government Advocate takes notice for the respondents. By consent of the parties, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of the second respondent dated 17.03.2017, rejecting the request of the petitioner for extension of time for making the deposit of Rs.4,50,28,011/- by four weeks from 29.03.2017.

3. Heard both sides.

4. The petitioner is a public limited company. An order of assessment was made by the first respondent in respect of assessment year 2015-2016. Challenging the said order, the petitioner preferred an appeal before the Appellate Authority namely, the second respondent herein. They also filed stay petition for grant of stay of collection of balance amount of tax, pending disposal of the appeal. On 28.02.2017, the said stay petition was disposed of by granting stay for six months or till the disposal of the appeal, whichever is earlier, subject to a condition that the petitioner should pay 25% of the disputed tax, which arise to Rs.4,50,28,011/- on or before 29.03.2017 and to furnish bank guarantee to the satisfaction of the Assessing Officer for the balance amount of tax. By expressing certain financial difficulties, the petitioner made an application for extension of time for making such deposit of 25% of the disputed tax on or before 29.03.2017. The petitioner sought further four weeks time from the said last date. The said request was rejected by passing the impugned order on the reason that if further time is granted, it will adversely impact the tax collection.

5. The learned counsel appearing for the petitioner submitted that the petitioner is not questioning the condition imposed by the second respondent and on the other hand, due to certain financial difficulties being experienced, the petitioner wants only four weeks further time to make such deposit. Therefore, he contended that the reasoning of the second respondent to refuse the request of the petitioner is not factually correct.

6. The learned Government Advocate submitted that when already time is granted to the petitioner, he should have complied with the order within such time.

7. The petitioner is not disputing the condition imposed, while granting an order of interim stay by the Appellate Authority. But they are only requesting further four weeks time to comply with the condition, that too only in respect of deposit of 25% of the tax liability. I do not think that there will be any adverse impact on the tax collection, if such time is granted to the petitioner, taking note of the financial constraint, as expressed in their petition filed before the 2nd respondent.

8. Accordingly, this writ petition is allowed and the impugned order is set aside and consequently the petitioner is permitted to make the deposit of Rs.4,50,28,011/- on or before 30.04.2017. It is made clear, that the petitioner should not seek for further time on any account and it is also made clear that the petitioner should comply with the second condition namely furnishing of Bank Guarantee immediately on receipt of the copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Commissioner (CT)-IV
   Large tax Payers Unit
   34, Marshalls Road, Egmore,
   Chennai-600 008.

2. The Joint Commissioner (CT) (Appeals)
   PAPJM Building Annexe,
   Greams Road, Chennai-600 006.

+1cc to Mr.N.Inbarajan, Advocate Sr.18356
+1cc to the Special Government Pleader Sr.18391

W.P.No.7155 of 2017

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srg 27/03/2017