IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.01.2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.2121 of 2017

and WMP Nos.2087 and 2088 of 2017

M/s.OPG Metals Pvt. Ltd.,
rep. by its Director - A.Krishnan,
Maruthur Village,
Therizhandur-609 808,
Kuttalam Taluk,
Nagapattinam District. .. Petitioner

vs.

1. The Commercial Tax Officer,
   Mayiladuthurai II Circle,
   Mayiladuthurai.

2. The Appellate Deputy Commissioner (CT),
   Cuddalore. .. Respondents

* * *

Prayer : Writ Petition 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 made in S.P.No.76/2016, in A.P.339/2016(VAT), dated 21.12.2016, quash the same in so far as it directs the petitioner to furnish security for the balance of disputed taxes and penalty due for the assessment year 2011-2012 under the TNVAT Act, 2006.

* * *

For Petitioner : Ms.R.Hemalatha
For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

ORDER

1. Issue notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondents.

1.1. With the consent of the learned counsels for the parties, the writ petition is taken up for hearing and final disposal.

2. This writ petition is directed against the order dated 21.12.2016.

2.1. By virtue of this order, certain conditions have been imposed by the Appellate Deputy Commissioner, while granting stay.

3. Learned counsel for the petitioner says that 50% of the disputed tax has already been deposited, and that, the petitioner is aggrieved with the condition put forth in the impugned order for furnishing Bank Guarantee, with regard to the balance 50% of the disputed tax and penalty.

3.1. To be noted, the total amount comes to a figure of Rs.9,11,029/-.

3.2. In support of his submissions, learned counsel for the petitioner relies upon the order dated 16.12.2016, passed in W.P.No.43381 of 2016, titled : Ashok Leyland Ltd., V. The Deputy Commissioner (CT)-III.

4. I have put to learned counsel for the respondents, i.e., Mr.S.Kanmani Annamalai, as to whether the condition with regard to the Bank Guarantee could be modified to furnish a personal bond. Mr.Annamalai, says that, as has been done by this Court in other matters, including in the order dated 16.12.2016, passed in W.P.No.43381 of 2016, titled : Ashok Leyland Ltd., V. The Deputy Commissioner (CT)-III, the condition could be modified.

5. Accordingly, upon the petitioner furnishing a personal bond for the balance disputed tax and the penalty, the stay granted by the second respondent, i.e., Appellate Deputy Commissioner, will continue to operate during the pendency of the appeal.

6. The writ petition is disposed of in the aforementioned terms. Resultantly, the pending applications are closed. There shall, however, be no order as to costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Commercial Tax Officer,
   Mayiladuthurai II Circle,
   Mayiladuthurai.

2. The Appellate Deputy Commissioner (CT),
   Cuddalore.

W.P.No.2121 of 2017
& WMP Nos.2087 and 2088 of 2017

RSK(CO)
VR(15/02/2017)