IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2017

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.1745 of 2017
And
W.M.P.No.1730 of 2017

Narsi Associates,
(Represented by its Proprietor)
Mr.Narsiram D Kularia Suthar) ... Petitioner

Vs.

1 The Appellate Deputy Commissioner, (Chennai Central),
3rd Floor, PAJPM Buildings,
Greams Road, Chennai – 600 006.

2 The Assistant Commissioner(CT)
Vepery Assessment Circle,
No.10, Greams Road,
Chennai – 600 006.

3 Commissioner of Commercial Taxes,
Chepauk, Chennai – 600 005.

4 Government of Tamil Nadu
rep. by its Secretary
Commercial Taxes Department
Fort St. George, Chennai – 600 009.
... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the Impugned order in S.P.No.115/2016 in A.P.No.246/2016 dated

23.12.2016 passed by the 1st respondent and quash the same.

For Petitioner : Mr.Raghavanramabadran
For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

1.Issue Notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondents. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.This writ petition is directed against the order dated 23.12.2016.

3.Learned counsel for the petitioner says that the conditions of stay incorporated in the impugned order are onerous.

4.To be noted, it is the petitioner's case that 25% of the tax demanded has already been paid. By virtue of the impugned order, the petitioner has been called to pay another 25% of the tax demanded and to furnish security in the form of a Bank Guarantee of a Nationalized Bank for the balance amount of tax and penalty.

5.Learned counsel for the petitioner says that the impugned order is sketchy and does not disclose the prima facie case or aspects pertaining to balance of convenience and irreparable injury that could be caused to the petitioner, if absolute stay, as prayed, is not granted.

6.Furthermore, the learned counsel for the petitioner says that this Court in W.P.No.43381 of 2016 vide order dated 16.12.2016 has stayed the order in original, pending the disposal of the appeal, upon deposit of 50% of the tax and furnishing of a personal bond for the balance tax and penalty.

7.Mr.Annamalai, who appears for the respondents says that the same yardstick could be followed in the present case as well.

8.Accordingly, the writ petition is disposed of, with a direction to the petitioner to deposit another sum equivalent to 25% of the tax within four weeks from today. In addition, the petitioner will furnish a personal bond for the balance tax and penalty. Upon the assurance that these conditions will be fulfilled, the order-in-original will continue to remain stayed, till the disposal of the appeal by the first respondent, on merits. In case, the conditions are not complied with, the interim protection granted to the petitioner will stand automatically dissolved.

RAJIV SHAKDHER,J.

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9.The writ petition is disposed of with the aforesaid directions. Consequently, the connected pending application is also closed. However, there shall be no order as to costs.

24.01.2017

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Index: Yes/ No
Internet: Yes/ No

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