IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.10895 to 10902 of 2015
and
M.P.Nos.1 to 1 and 2 to 2 of 2015

M/s.Saravana Agencies
Rep. By its Proprietor,
No.501-A, G.N.T.Road,
Thandalkalani, Puzhal,
Red hills, Chennai - 600 066. ... Petitioners in all the petitions.

Versus

1.The Appellate Deputy Commissioner (CT),
Chennai North Division,
Greams Road, Chennai - 600 006.

2.The Assistant Commissioner (CT)
Madhavaram Assessment Circle,
GNT Road, Puzhal Camp,
Chennai - 600 066. ... Respondents in all the petitions.

Prayer: This Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings in S.P.No.26, 27, 28, 29, 30, 31, 32 and 33 of 2015 in VAT AP.No.33, 34, 35, 36, 37, 38, 39 & 40 of 2015, quash the order therein dated 02.03.2015 and further direct the first respondent may be permitted to give a personal bond in substitution of the bank guarantee in respect of the amount of balance of taxes and penalty.

For petitioner : M/s.Radhika Chandra Sekhar

COMMON ORDER

All these Writ Petitions have been filed by M/s.Saravana Agencies,
represented by its Proprietor, challenging the impugned order passed by the first respondent in S.P.Nos.26 to 33 of 2015 in VAT AP.Nos.33 to 40 of 2015, respectively dated 02.03.2015, wherein the 1st respondent directed the petitioner to pay another 25% of the disputed tax amount and again directed the petitioner to furnish the bank guarantee to the fullest satisfaction of the Assessing Officer for the balance amount of Tax and Penalty for a period of minimum six months from a Nationalised or scheduled bank before the Assessing Officer on or before 01.04.2015.

2. Challenging the second condition imposed against the petitioner, the learned counsel appearing for the petitioner would submit that the approach adopted by the 1st respondent clearly shows that he has failed to appreciate Section 24(2) of the TNGST Act and Section 42 of the TN VAT Act read with Section 9 of the CST Act. A joint reading of this provision clearly shows that there has been an automatic charge created on the assets of the petitioner and therefore, there is no necessity for a direction to file security for the balance amount of taxes. That apart, at the time of filing an appeal, the the petitioner has also deposited 25% of the disputed tax amount and again when the stay application has been taken up, the first respondent directed the payment of another 25% of the disputed tax amount. That amount was also paid. While so, the petitioner is not in a position to file a Bank Guarantee for the balance amount of tax and penalty.

3. This Court in a similar occasion, while considering an identical circumstances, dealing with a similar impugned order, modified only the second condition to one of directing the petitioner to execute the personal bond instead of furnishing bank guarantee for the balance amount of tax and penalty.

4. In view of the fact that this Court has already considered the similar prayer and following the similar order, these writ petitions stand disposed off by confirming the first condition and replacing the second condition to one of directing the petitioner to execute a personal bond for the balance amount of tax and penalty, as there has been an automatic charge created in view of Section 24 (2) of the TNGST Act and Section 42 of the TN VAT Act read with Section 9 of the CST Act. The petitioner is directed to execute the

personal bond within a period of 10 days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

vsm

To

1.The Appellate Deputy Commissioner (CT),
Chennai North Division,
Greams Road, Chennai - 600 006.

2.The Assistant Commissioner (CT)
Madhavaram Assessment Circle,
GNT Road, Puzhal Camp,
Chennai - 600 006.

+8 ccs to Mr.K.Vaitheeswaran,Advocate SR.No.20869

1 CC to Spl. Government Pleader[Taxes] SR 20797

W.P.Nos.10895 to 10902 of 2015

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gp/22.05.2015