

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2015

Coram:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.11731 to 11733 of 2015

And

M.P.Nos.1, 1 and 1 of 2015

M/s.Sun Blue
rep. by its Manager,
S.F.No.32/1, Musiri Village,
Walajah Taluk,
Vellore-632 403. : Petitioner in all W.P.Nos.

-Vs-

1. The Appellate Deputy Commissioner (CT),
Vellore.
2. The Assistant Commissioner (CT),
Ranipet Assessment Circle,
Ranipet. : Respondents in all W.P.Nos.

PRAYER IN W.P.No. 11731/2015: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for records of the first respondent in S.P.No.57/2015 in A.P.VAT No.580/2014 and quash the impugned order, dated 20.03.2015 and further direct the first respondent to grant an absolute stay of collection of the balance of disputed tax and for the entire disputed penalty in respect of the assessment year TIN 2010-2011 without imposing any further condition of furnishing of security in the form of immovable property or bank guarantee pending disposal of the appeal on his files.

PRAYER IN W.P.No.11732 of 2015 : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for records of the first respondent in S.P.No.58/2015 in A.P.VAT No.585/2014 and quash the impugned order, dated 20.03.2015 and further direct the first respondent to grant an absolute stay of collection of the balance of disputed tax and for the entire disputed penalty in respect of the Assessment year TIN 2011-2012 without imposing any further condition of furnishing of

security in the form of immovable property or bank guarantee pending disposal of the appeal on his files.

PRAYER IN W.P.No.11733 of 2015: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for records of the first respondent in S.P.No.59/2015 in A.P.VAT No.96/2015 and quash the impugned order, dated 20.03.2015 and further direct the first respondent to grant an absolute stay of collection of the balance of disputed tax and for the entire disputed penalty in respect of the Assessment year TIN 2012-2013 without imposing any further condition of furnishing of security in the form of immovable property or bank guarantee pending disposal of the appeal on his files.

For Petitioners in
all W.Ps. : Mr. P.Rajkumar

For Respondents in
all W.Ps. : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

With the consent of both sides, these Writ Petitions itself are taken up for final disposal. Mr.S.Kanmani Annamalai, learned Government Advocate (Taxes), takes notice for the respondents.

2. The relevant assessment years are 2010-2011; 2011-2012 and 2012-2013. The Assessing Officer, the above mentioned second respondent, has completed the assessment. Aggrieved by that, the petitioner has preferred appeals before the Appellate Authority, the above mentioned first respondent. Along with the appeals, the petitioner has also filed the stay petition. The first respondent has passed the order in stay petitions in S.P.Nos.57, 58 and 59 of 2015 with the following conditions:-

"S.P.No.57/2015

(i) The petitioner shall pay a further amount of Rs.75,544/- being another 25% of the disputed tax within one month and file a bank guarantee for the remaining balance of Rs.3,02,174/- (tax Rs.1,51,087/- + penalty Rs.1,51,087/-) on or before 19.04.2015; and

(ii) The Bank Guarantee shall be for a period of six months that is

upto 19.09.2015 and the duplicate copy of Bank Guarantee attested by the Assistant Commissioner (CT), Ranipet Assessment Circle shall be filed in this office for awareness and file purpose.

S.P.No.58/2015:

(i) The petitioner shall pay a further amount of Rs.1,21,702/- being another 25% of the disputed tax within one month and file a bank guarantee for the remaining balance of Rs.7,30,210/- (tax Rs.2,43,403/- + penalty Rs.4,86,807/-) on or before 19.04.2015; and

(ii) The Bank Guarantee shall be for a period of six months that is upto 19.09.2015 and the duplicate copy of Bank Guarantee attested by the Assistant Commissioner (CT), Ranipet Assessment Circle shall be filed in this office for awareness and file purpose.

S.P.No.59/2015:

(i) The petitioner shall pay a further amount of Rs.6,13,188/- being another 25% of the disputed tax within one month and file a bank guarantee for the remaining balance of Rs.36,79,124/- (tax Rs.12,26,374/- + penalty Rs.24,52,750/-) on or before 19.04.2015; and

(ii) The Bank Guarantee shall be for a period of six months that is upto 19.09.2015 and the duplicate copy of Bank Guarantee attested by the Assistant Commissioner (CT), Ranipet Assessment Circle shall be filed in this office for awareness and file purpose."

3. In respect of the above conditions, the learned Counsel for the petitioner fairly stated that the petitioner had already complied with the direction with regard to payment of another 25% of the disputed tax. So far as the condition of filing the bank guarantee for the remaining balance of tax is concerned, this Court has consistently taken a stand that when there has been an automatic

charge over the property U/s. 42(2) of TNVAT Act and Section 24 (2) of TNGST Act, directing the assessee to execute the bank guarantee is unnecessary and as such, the petitioner can execute the personal bond.

4. Therefore, in the cases on hand also, in lieu of executing the bank guarantee as directed by the appellate authority viz., the first respondent, this Court directs the petitioner to execute personal bond for the remaining balance of tax in each case within a period of one week from the date of receipt of a copy of this order as he has already deposited 50% of the disputed tax.

5. With these observations, these Writ Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

tsi

To

1. The Appellate Deputy Commissioner (CT),
Vellore.
2. The Assistant Commissioner (CT),
Ranipet Assessment Circle,
Ranipet.

1 cc to mr.P. Rajkumar, Advocate, Sr. 22696

1 cc to Spl.Government Pleader, (Taxes), Sr. 22133

W.P.Nos.11731 to 11733/2015

KV (CO)
kk 26/5

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