

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2015

Coram:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.11753 of 2015

And

M.P.Nos.1 and 2 of 2015

K.S.Srinivasan

...Petitioner

-Vs-

1. The Deputy Commercial Tax Officer
Tiruvannamalai-1
Tiruvannamalai
2. The Appellate Deputy Commissioner (CT)
Commercial Taxes Building
Vellore

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the file of the 2nd respondent in his proceedings in S.P.No.112/2015 in APV 601/2014 dated 06.04.2015 and 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 2012-13 under the TNVAT Act, 2006.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader
(Taxes)

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O R D E R

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

2. The relevant assessment year is 2012-2013. The Assessing Officer, the above mentioned first respondent, has completed the assessment. Aggrieved by that, the petitioner has preferred appeal before the Appellate Authority, the above mentioned second respondent. Along with the appeal, the petitioner has also filed the stay petition. The second respondent has passed the order in stay petition in S.P.No.112 of 2015 with the following conditions:-

"S.P.No.57/2015

(i) The petitioner shall pay a further amount of Rs.1,37,539/- being another 25% of the disputed tax within one month and file a bank guarantee for the remaining balance of Rs.5,93,222/- (tax Rs.2,75,015/- + penalty Rs.3,18,207/-) on or before 05.05.2015; and

(ii) The Bank Guarantee shall be for a period of six months that is upto 05.09.2015 and the duplicate copy of Bank Guarantee attested by the Deputy Commercial Tax Officer, Tiruvannamalai-I 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, but, in so far as the condition of filing the bank guarantee for the remaining balance of tax is concerned, he stated that the said condition is onerous and due to financial constraints, the petitioner could not comply with the said direction of the Appellate Authority. The petitioner has already paid 50% of the disputed taxes.

4. In view of the above submission, this Court is inclined to modify the second condition of the appellate authority. Accordingly, in lieu of executing the bank guarantee, this Court directs the petitioner to execute personal bond for the remaining balance of Rs.5,93,222/- (tax and penalty) 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 the above observations, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Deputy Commercial Tax Officer
Tiruvannamalai-1
Tiruvannamalai
2. The Appellate Deputy Commissioner (CT)
Commercial Taxes Building
Vellore

1 CC to Ms.R.Hemalatha, Advocate SR.No. 21875

1 CC to the Spl. Government Pleader, SR.No. 22132

GR (CO)
PSI(18.05.2015)

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