IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2015

Coram

The Hon'ble Mr. Justice T.RAJA

W.P.Nos.12803 and 12804 of 2015

M/s.AAP Associates rep. By
G.Prakashchand .. Petitioner in both the W.Ps

Vs.

1.The Appellate Deputy Commissioner
(CT), Central, C.T. Building,
Third Floor, Chennai - 6.

2.The Assistant Commissioner (CT),
Sembium Assessment Circle,
Chennai. .. Respondents in both the W.Ps

Petitions filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records on the file of the first respondent in S.P.Nos.180/15 and 181/15 in A.P.VAT Nos.206/15 and 207/15 dated 26.03.2015 relating to the years 2009-10, 2010-11 respectively and quash the same as being invalid and illegal in so far as the said order directs the petitioner to file bank guarantee for the balance of amounts and further directing and permitting the petitioner to file a personal bond for the balance of tax and penalty.

For Petitioner .. Mr.C.Venkatraman
in both the W.Ps

For Respondents .. Mr.Manohar Sundaram,
Addl. Govt. Pleader (T)
in both the W.Ps

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COMMON ORDER

These two writ petitions are filed by M/s.AAP Associates represented by Mr.G.Prakashchand, aggrieved by the impugned orders dated 26.03.2015 passed by the Appellate Assistant Commissioner (CT), Central, Chennai, directing the petitioner to pay 25% of the disputed amount of tax due before the assessing authority with further direction to file valid security in favour of the assessing authority with regard to the balance tax amount of Rs.2,73,610/- and

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Rs.2,37,087/- respectively.

2.Aggrieved by the orders passed by the second respondent/ Assistant Commissioner (CT), the petitioner has filed appeals along with the stay petitions before the first respondent on deposit of 25% of the disputed tax. While entertaining the appeals, the petitioner was directed to pay 25% of the disputed tax on or before 27.04.2015 and furnish bank guarantee for the balance amount. The grievance of the petitioner is that the petitioner has deposited 50% of the disputed tax as required under Section 51 of the TNVAT Act and therefore, the first respondent, instead of directing the petitioner to furnish valid bank guarantee for the remaining amount, could have directed the petitioner to execute a personal bond as there has been an automatic charge over the property.

3.Mr.Manohar Sundaram, learned Additional Government Pleader (T) takes notice for the respondents. He would submit that there is an automatic charge over the property under Sections 42(2) and 43 of TNVAT Act.

4.In view of the above, this Court is inclined to modify only the second condition. The second condition is therefore replaced by directing the petitioner to execute personal bond in lieu of furnishing bank guarantee within a period of two weeks from the date of receipt of a copy of this order. The writ petitions are disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Appellate Deputy Commissioner
(CT), Central, C.T. Building,
Third Floor, Chennai - 6.

2.The Assistant Commissioner (CT),
Sembium Assessment Circle,
Chennai.

1 cc to Mr.C.Venkatraman ,Advocate, SR.No.23626

1 cc to Spl Government Pleader(Taxes),Sr.No23607

W.P.Nos.12803 and
12804 of 2015

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