

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.2672 and 2673 of 2015

Swetha Builders represented
by its Partner R.Pushparaj

.. Petitioner in both cases

Vs.

1. The Appellate Deputy Commissioner
(CT) Central, 3rd Floor,
Commercial Taxes Annexe Building,
1, Greams Road, Chennai-600 006.

2. The Commercial Tax Officer,
Saligramam Assessment Circle,
21,G.K.Industrial Estate, Alapakkam,
Porur, Chennai-116.

.. Respondents in both cases

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in SP No.34/14 in VAT No.514/14 and SP.No.35 of 2014, in VAT No.515 of 2014 and to quash the order dated 14.01.2015 so far as the condition of furnishing of security for the balance of disputed penalty in the form of bank guarantee is concerned pending disposal of the appeal.

For Petitioner in both cases : Mr.R.Kumar

For Respondents in both cases : Mr.Kanmani Annamalai
Addl.Govt.Pleader (T)

COMMON ORDER

By consent, the writ petitions are taken up for final disposal during the time of admission.

2. These writ petitions are directed against the order dated 14.01.2015 on the file of Appellate Deputy Commissioner (Commercial Tax)-III (FAC), Chennai, imposing a condition that the petitioner should produce Bank Guarantee for the penalty amount during the currency of the appellate proceedings.

3. The petitioner filed an appeal before the first respondent challenging the Assessment Order passed by the second respondent. The appeal was taken on file by the first respondent along with a stay petition filed by the petitioner. The Appellate Authority was pleased to grant an order of stay, directing the petitioner to produce valid

security in the form of Bank Guarantee obtained from any of the Nationalised Banks executed in favour of the Assessing Authority concerned on or before 13.02.2015. The said onerous condition is challenged in these writ petitions.

4. I have heard the learned counsel for the petitioner and the learned Additional Government Pleader (Tax) appearing for the respondents.

5. The present writ petitions are confined to the direction with regard to the execution of Bank Guarantee for the balance amount of penalty of Rs.2,65,805/- and Rs.3,69,672/- respectively.

6. The petitioner has already paid the entire tax amount. The Appellate Deputy Commissioner, directed the petitioner to produce Bank Guarantee for the remaining amount of penalty.

7. This Court has passed several orders on earlier occasions substituting the condition with regard to execution of Bank Guarantee by permitting the concerned appellants to produce a personal bond, undertaking to pay the entire amount, in case the appeal is rejected.

8. The petitioner is also similarly placed. I am therefore of the view that the petitioner should be permitted to execute a personal bond instead of Bank Guarantee.

9. In the result, the impugned orders are modified by permitting the petitioner to execute a personal bond undertaking to pay the balance amount of penalty of Rs.2,65,805/- and Rs.3,69,672/- respectively. The petitioner is directed to execute the personal bond within a period of two weeks from the date of receipt of a copy of this order and in case of execution of such personal bond the order of stay granted by the first respondent would be in force, till the disposal of the statutory appeal.

10. The writ petitions are allowed, as indicated above. No costs.

Vga

WEB COPY

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Appellate Deputy Commissioner
(CT) Central, 3rd Floor,
Commercial Taxes Annexe Building,
1, Greams Road, Chennai-600 006.

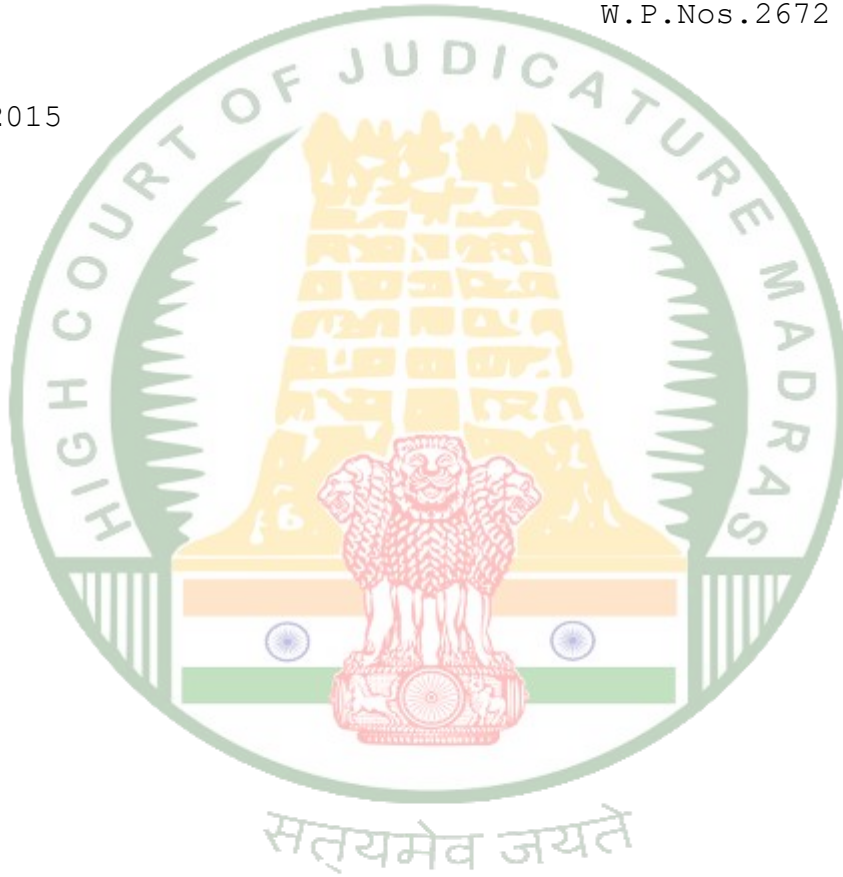
2. The Commercial Tax Officer,
Saligramam Assessment Circle,
21,G.K.Industrial Estate, Alapakkam,
Porur, Chennai-116.

+1 C.C. To Special Government Pleader (Sr.No.5810)

+1 C.C. To R.Kumar, Advocate (Sr.NO.6146)

W.P.Nos.2672 and 2673 of 2015

SAI (CO)
SD 23/02/2015



WEB COPY