

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-02-2015

Coram :

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

Writ Petition No. 2821 of 2015

Moti & Co.,
rep. by its Partner
Shanti Chand Golechha
No.396, Avvai Shanmugam Salai
Chennai - 600 086

...Petitioner

Versus

1. The Assistant Commissioner (CT)
Royapettah I Assessment Circle
46, Greenways Road
Chennai - 600 028
2. The Appellate Deputy Commissioner (CT) (East)
CT Building Annexe 3rd Floor
Grems Road,
Chennai - 600 006

...Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records on the files of the second respondent herein in his SP No.93/2014/East APV 84/2014/East dated 08.01.2015 quashing the same while directing the petitioners to furnish personal bond for the amount of Rs.1,98,977/- instead of bank guarantee that has been ordered by the second respondent.

For Petitioner : Mr. N. Inbarajan

For Respondent : Mr. P.R. Jaya Pratap
Additional Government Pleader (Tax)

ORDER

The petitioner has filed this Writ Petition for issuance of writ of certiorarified mandamus, to call for the records of first respondent in his proceedings in his SP No.93/2014/East APV 84/2014/East dated 08.01.2015, to quash the same and consequently permit the petitioners to furnish personal bond for Rs.1,98,977/- instead of bank guarantee, as ordered by the second respondent herein.

2. With consent of both the parties, this Writ Petition is taken up for hearing at the stage of admission itself.

3. After payment of the 25% of the disputed tax amount, the petitioner is before this Court seeking to set aside the order dated 08.01.2015 of the second respondent and to permit him to furnish personal bond for the remaining tax amount instead of bank guarantee.

4. The learned counsel for the petitioner relies on the decision of this Court, dated 09.11.2012 made in W.P.No.30301 of 2012 (M/s.R.A. & Co., rep. By its Partner vs. The Appellate Deputy Commissioner (CT) VI (FAC) and another) in which, in para 5, an earlier decision of this Court made in W.P.(MD) No.10567 of 2006 dated 27.11.2006 (M/s.Raja Ceramics represented by its Partner M.A.Nazimal Gani, 720 East Veli Street Madurai Vs. The Appellate Assistant Commissioner (CT) Madurai (South) was cited. Para 4 of the above decision reads as follows:

"4. In a number of similar matters, this Court modified the conditions. Considering the facts and circumstance of the case, the submission made on either side and keeping in view the fact that an automatic charge is created under Section 24(2) of the Tamil Nadu General Sales Tax Act on the properties of the defaulting assessee, the following order is passed:-

"The condition imposed in paragraph 6 of the order of the first respondent to the effect that the petitioner should furnish adequate security on or before 17.11.2006 is modified and the petitioner is directed to execute a personal bond for the balance of tax and penalty amounting to Rs.1,79,876/- (Rupees one lakh seventy nine thousand eight hundred and seventy six only) within a period of fifteen days from today, failing which, this order shall stand vacated."

5. In view of the above decision of this Court, the conditions imposed in Para No. 15 (i) to (iii) in the impugned order dated 08.01.2015 passed by the second respondent is modified. The petitioner is permitted to furnish personal bond for the amount due towards the balance amount of tax and penalty within a period of fifteen days from the date of receipt of a copy of this order, failing which, the order shall stand automatically vacated. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner (CT)
Royapettah I Assessment Circle
46, Greenways Road
Chennai - 600 028
2. The Appellate Deputy Commissioner
(CT) (East)
CT Building Annexe 3rd Floor
Greaves Road, Chennai - 600 006

1 CC to Mr. N. Inbarajan, Advocate SR.No. 7799

1 CC to the Spl. Government Pleader, SR.No. 7862

SV (CO)
PSI (10.03.2015)

WP No. 2821 of 2015