

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

Writ Petition Nos.8160 to 8162 of 2015 and
M.P.Nos.1 of 2015 (3 Mps) in
W.P.Nos.8160 to 8162 of 2015

Tvl.Hotel Thalapathi
Rep. By its Proprietrix,
Nirmala,
No.292 & 293, Triplicane,
High Road, Chennai - 600 005.

... Petitioner in All W.Ps

vs.

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

2.The Assistant Commissioner (CT),
Chepauk Assessment Circle,
PAPJM Annex Building,
First Floor, Greams Road,
Chennai - 600 006.

... Respondents in all W.Ps

W.P.No.8160 of 2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus, calling for the records in order passed in S.P.No.68/2015 in APV No.32/2015/East, dated 20.02.2015, on the file of the first respondent and quash the same as illegal, arbitrary and unjustifiable and permit the petitioner to execute personal bond for the balance of tax of rs.30,08,651/- pending disposal of the appeal in APV No.32/2015/East on the file of the first respondent thereby modifying the impugned order.

W.P.No.8161 of 2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus, calling for the records in order passed in S.P.No.70/2014 in APV No.34/2015/East, dated 20.02.2015, on the file of the first respondent and quash the same as illegal, arbitrary and unjustifiable and permit the petitioner to execute personal bond for the balance of tax of Rs.27,11,676/- pending disposal of the appeal in APV No.34/2015/East on the file of the first respondent thereby modifying the impugned order.

W.P.No.8162 of 2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus, calling for the records in order passed in S.P.No.69/2015 in APV No.33/2015/East, dated 20.02.2015, on the file of the first respondent and quash the same as illegal, arbitrary and unjustifiable and permit the petitioner to execute personal bond for the balance of tax of Rs.23,28,779/- pending disposal of the appeal in APV No.33/2015/East on the file of the first respondent thereby modifying the impugned order.

For Petitioner : Mr.A.Thiyagarajan, Senior Counsel
in all W.Ps for Mr.S.Ramesh Kumar

For Respondent : Mr.A.N.R.Jayaprathap
in all W.Ps Government Advocate (T)

COMMON ORDER

By consent of the learned counsel on either side, the writ petitions are taken up for hearing and disposed of by this common order.

2.Heard Mr.A.Thiyagarajan, learned Senior Counsel appearing for the petitioner and Mr.A.N.R.Jayaprathap, learned Government Advocate (T) takes notice for the respondents.

3.The petitioner has filed the above writ petitions seeking to issue a writ of certiorarified mandamus, calling for the records in S.P.No.68/2015 in APV No.32/2015/East; S.P.No.70/2014 in APV No.34/2015/East and S.P.No.69/2015 in APV No.33/2015/East, dated 20.02.2015 respectively, on the file of the first respondent and quash the same as illegal, arbitrary and unjustifiable and permit the petitioner to execute personal bonds for the balance of tax of Rs.30,08,651/-, Rs.27,11,676/- and Rs.23,28,779/- respectively pending disposal of the appeals in APV No.32/2015/East, APV No.34/2015/East and APV No.33/2015/East respectively, on the file of the first respondent thereby modifying the impugned orders.

4.It is the case of the petitioner that on 30.10.2014, the second respondent passed the assessment orders against the petitioner for the assessment years 2011-2012, 2012-2013 and 2013-2014. The petitioner filed the above appeals before the first respondent after making 25% of the disputed tax. The first respondent while passing the orders on the above appeals, directed the petitioner to pay a further 25% of the disputed tax and also to furnish bank guarantee for the remaining amount of disputed tax and penalty. Aggrieved over the direction of the first respondent to furnish bank guarantee, the petitioner has filed the above writ petitions.

5.It is not in dispute that the petitioners have complied with the first portion of the conditional order passed by the first respondent by paying 25% of the disputed tax. So far as the second portion of the order i.e., furnishing bank guarantee for the remaining amount of disputed tax and penalty, the petitioner is aggrieved.

6.Mr.A.N.R.Jayaprathap, learned Government Advocate (T) appearing for the respondents submitted that the petitioner can be permitted to execute personal bonds for the balance amount within the stipulated time. Further, it is also brought to my notice that this Court in W.P.No.19421 of 2011 dated 23.08.2011, had modified the order passed by the first respondent therein by permitting the petitioner to execute personal bond for the balance disputed tax instead of furnishing bank guarantee.

7.Following the said order, the orders of the first respondent in S.P.No.68/2015 in APV No.32/2015/East; S.P.No.70/2014 in APV No.34/2015/East and S.P.No.69/2015 in APV No.33/2015/East, dated 20.02.2015 respectively, are modified by permitting the petitioner to furnish personal bonds for the balance of tax of Rs.30,08,651/-, Rs.27,11,676/- and Rs.23,28,779/- respectively, instead of furnishing bank guarantees for the said amounts within a period of ten days from the date of receipt of a copy of this order.

8.With the above observations, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

jbm

Sub Assistant Registrar

To

1.The Appellate Deputy Commissioner (CT) (East),
Commercial Taxes Building Annexe,
3rd Floor, Greaves Road, Chennai.

2.The Assistant Commissioner (CT),
Chepauk Assessment Circle,
PAPJM Annex Building,
First Floor, Greaves Road, Chennai - 600 006.

+3cc's to M/s.S.Ramesh Kumar, Advocate, S.R.No.16198 to 16200
+1cc to the Special Government Pleader(T), S.R.No.16410

W.P.Nos.8160 to 8162 of 2015

MP(CO)
CA(31/03/2015)