

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.3.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.9437 to 9439 of 2015

M/s. Amman Agencies

Represented by P.Rajendran

Partner, 75/22, Vellala Street,

Chennai - 23

.... Petitioner in all petitions

vs.

1.The Appellate Deputy Commissioner
(CT),

Central C.T.New Buildings,
3rd Floor, Chennai - 600 006.

2.The Assistant Commissioner (CT)

Ayanavaram - Assessment Circle,
Chennai - 600 010

.... Respondents in all petitions

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in SP.No.146/15 in A.P.VAT.148/15 dated 9.03.2015 relating to the year 2006-07; SP.No.147/15 in A.P.VAT.149/15 dated 9.03.2015 relating to the year 2007 - 08 and SP.No.148/15 in A.P.VAT.150/15 dated 9.03.2015 relating to the year 2008- 09, and quash the same as being invalid and illegal insofar as the same directs filing of bank guarantee as Security for the balance of tax and penalty, and further directing and permitting the petitioner to file a personal bond for the balance of tax and penalty.

For Petitioner :

Mr.C.Venkataraman

For Respondents:

Mr.Manoharan Sundaram,

Additional Government Pleader (T)

C O M M O N O R D E R

The petitioner has filed the above Writ Petitions seeking quash of proceedings of the first respondent passed in SP.Nos.146/15 in A.P.VAT.148/15 dated 09.03.2015 relating to the year 2006-07, SP.Nos.147/15 in A.P.VAT.149/15 dated 09.03.2015 relating to the year 2007-08 and SP.Nos.148/15 in A.P.VAT.1508/15 dated 9.03.2015

relating to the year 2008- 09 and direct the respondents to accept personal bond for the balance of tax and penalty.

2. With consent of both the parties, these Writ Petitions are taken up for hearing at the stage of admission itself.

3. Learned counsel for petitioner submits that 25% of the disputed tax amount has been paid in keeping with the orders passed by the first respondent Appellate Authority in the stay petition and seeks modification insofar as the balance amount of tax and penalty for which bank guarantee / security bond of immovable property was directed to be produced. Learned counsel further submits that such condition is onerous.

4. Learned counsel for 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 paragraph No.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. Paragraph No.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, this Court orders as follows:

- (a) condition (i) of the impugned proceedings dated 09.3.2015 remains unaltered;
- (b) insofar as condition (ii) is concerned, the petitioner shall furnish a personal bond instead of Bank Guarantee / Security Bond of immovable property in respect of assessment years 2006-2007; 2007-2008 and 2008 -2009 respectively within a period of six

weeks from the date of receipt of a copy of this order, failing which, the order shall stand automatically vacated.

This Writ Petitions are disposed of with the above direction.
No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Appellate Deputy Commissioner
(CT)
Central C.T.New Buildings,
3rd Floor, Chennai - 600 006.

2.The Assistant Commissioner (CT)
Ayanavaram Assessment Circle,
Chennai - 600 010

+1 cc to Spl.government Pleader (T),SR.18222

+1 cc to Mr.C.Venkataraman, Advocate,SR.17997.

ak(co)
krd 13/4

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