



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2015

CORAM:

THE HONOURABLE Mr. JUSTICE K.RAVICHANDRABAABU

WEB COPY

W.P.(MD)Nos.21911 and 21912 of 2015

Sri Meenakshi Mobiles,
Rep.by its Proprietor R.Kanagavel
No.186-A North Veli Street, Madurai.

... Petitioner in W.P.(MD)Nos.21911 & 21912/15
Vs.

1.The Appellate Deputy Commissioner (CT) (FAC),
Madurai (North), Madurai.

2.The Commercial Tax Officer,
Nethaji Road Circle,
Madurai.

... Respondents in both the WPs.

PRAYER in W.P.(MD)No.21911 of 21015: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in S.P.No.46/2015 in VAT AP.114/2015 dated 05.11.2015, quash the same in so far as the condition to file security bond or bank guarantee for the balance amount of Rs.3,67,695/- (tax Rs.1,39,128/- + penalty Rs.2,28,567/-) is concerned and further direct the 1st respondent to grant stay till the disposal of the petitioner's appeal VAT AP.114/2015.

PRAYER in W.P.(MD)No.21912 of 21015: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in S.P.No.47/2015 in VAT AP.175/2015 dated 05.11.2015, quash the same in so far as the condition to file security bond or bank guarantee for the balance amount of Rs.3,10,957/- (tax Rs.1,85,022/- + penalty Rs.1,25,935/-) is concerned and further direct the 1st respondent to grant stay till the disposal of the petitioner's appeal VAT AP.175/2015.

For Petitioner : Mr.A.Chandrasekaran
For Respondents : Mr.R.Karthikeyan, AGP

COMMON ORDER

By consent of both parties, the Writ petitions themselves are taken up for final disposal, in view of the fact that the issue involve in these cases are squarely covered by the earlier decision made by this Court in favour of the petitioners.

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The petitioner is aggrieved against the orders of the 1st respondent, dated 05.11.2015, insofar as imposing a condition that the petitioner should furnish security bond or bank guarantee for



a sum of Rs.3,67,695/- and Rs.3,10,957/- on or before 04.05.2016, while granting an order of interim stay by the Appellate Authority.

3. According to the petitioner, in similar matters, this Court permitted furnishing of personal bond instead of security bond or bank guarantee. The above said contention of the learned counsel appearing for the petitioner is not disputed by the learned Additional Government Pleader appearing for the respondents. However, he submitted that the first condition of the stay orders for payment of Rs.69,613/- towards 25% and Rs.92,152/- towards 25% respectively, of the disputed tax is yet to be realized.

4. It is not in dispute that the petitioner has complied with one of the condition imposed by the Appellate Authority while granting an order of interim stay namely, payment of a sum of Rs.69,613/- and Rs.92,152/-. To that effect, a proof of payment dated 02.12.2015, which is produced before this Court. Therefore, as on today, the petitioner has complied with the first condition. Insofar as, the second condition is concerned, he is entitled to the benefit of the orders already passed in similar matters by furnishing a personal bond instead of security bond or bank guarantee as directed by the Appellate Authority. Therefore, the order passed by the Appellate Authority impugned in these writ petitions are modified only to the effect that the petitioner shall furnish personal bond for balance amount, within a period of two weeks from the date of receipt of a copy of this order and such personal bond shall be in force till the disposal of appeal. In all other aspects, the order passed by the Appellate Authority impugned in these Writ petitions stand. It is made clear that on furnishing of such personal bond, the Appellate Authority is directed to dispose of the appeals on merits and in accordance with law. It is also made clear that on furnishing of such personal bond, the stay granted by the Appellate Authority shall continue till the disposal of the appeals.

5. With the above direction, the Writ petitions are disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub-Assistant Registrar

To

1. The Appellate Deputy Commissioner (CT) (FAC),
Madurai (North), Madurai.

2. The Commercial Tax Officer, Nethaji Road Circle,
Madurai.

+2ccs to M/s.A.Chandrasekaran, Advocate, SR.Nos.70327 and 70328

+One cc to The Special Government Pleader, SR.No.71065

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RL/6C/PM/MP/29/12/2015

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