



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABABU

Writ Petition (MD) No.22465 of 2015

M/s.Radha and Radhu Auto Agency,
Rep. By its Proprietor S.Karthikeyan. ... Petitioner

Vs.

1.The Appellate Deputy Commissioner (CT),
Trichy.

2.The Assistant Commissioner,
Woraiyur Assessment Circle,
Trichy.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in S.P.No.246 of 2015 in VAT AP No.295 of 2015 dated 16.11.2015 on the file of the first respondent and quash the same as illegal and direct the second respondent to accept the personal bond to be executed by the petitioner in lieu of security.

For Petitioner : Mr.N.Sudalai Muthu
for Mr.S.Karunakar

For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

By consent of both parties, the Writ Petition itself is taken up for final disposal, in view of the fact that the issue involved in this case is squarely covered by the earlier decision made by this Court in favour of the petitioner.

2. Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondents.

3. The petitioner is aggrieved against the order of the first respondent dated 16.11.2015, insofar as imposing a condition that the petitioner should furnish Security Bond or Bank Guarantee for a sum of Rs.48,23,083/- on or before 15.12.2015, while granting the interim stay by the appellate authority.

4. 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



Demand Draft issued by the petitioner in compliance with the first condition of the stay order for payment of Rs.5,40,395/-on the disputed tax is yet to be realized.

5. 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.5,40,395/- by way of issuing a Demand Draft bearing No.437157, dated 11.12.2015. To that effect, an acknowledgment is also issued by the Assistant Commissioner (CT), Woraiyur Assistant Circle, Court Complex, Trichy, dated 11.12.2015, which is produced before this Court. Therefore, as on today, the petitioner has complied with the first condition namely, paying a sum of Rs.5,40,395/-. 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 this Writ Petition is modified only to the effect that the petitioner shall furnish personal bond for balance amount of Rs.48,23,083/- 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 the appeal. In all other aspects, the order passed by the Appellate Authority impugned in this Writ Petition stands. It is made clear that on furnishing of such personal bond, the Appellate Authority is directed to dispose of the appeal 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 appeal.

6. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1.The Appellate Deputy Commissioner (CT),
Trichy.

2.The Assistant Commissioner,
Woraiyur Assessment Circle,
Trichy.

+1 CC to Mr.S.Karunakar, Advocate, SR No.72176
+1 CC to the Special Government Pleader SR No.71951

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15.12.2015

ps

SH/SKS-RR :23.12.2015:2P/5C