

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.04.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.12936 & 12937 of 2016

and

W.M.P.Nos.11311 to 11314 of 2016

Tvl.Om Sree Saichandra Metals,
rep by its Managing Partner,
No.56, Geason Layout,
Ponnamman Nagar,
Ayanambakkam, Chennai - 600 095.

... Petitioner in both W.Ps

Vs.

1.The Appellate Deputy Commissioner (CT),
Chennai South, No.1, Greaves Road,
Chennai - 600 006.

2.The Commercial Tax Officer,
Ambattur Assessment Circle,
No.5, South High Court Colony,
Villivakkam, Chennai - 600 049.

... Respondents in both W.Ps

Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the 1st respondent in S.P.Nos.9 & 10/2016 in A.P.Nos.208 & 209/2015-VAT dated 22.03.2016 and quash the same in so far as the direction to file security in the form of Bank Guarantee or immovable property and direct the 2nd respondent to accept Personal Bond in lieu of Bank Guarantee for the balance of 50% of tax due of Rs.47,292/- and Rs.7,00,554/- [Tax Rs.5,86,259/- and penalty Rs.1,14,295/-].

For Petitioner : Mr.A.Ravichandran
(in both W.Ps)

For Respondents : Mr.S.Kanmani Annamalai,
(in both W.Ps) Additional Government Pleader (Tax)

C O M M O N O R D E R

The petitioner has filed the above Writ Petitions to issue writs of certiorarified mandamus to call for the records of the 1st respondent in S.P.Nos.9 & 10/2016 in A.P.Nos.208 & 209/2015-VAT dated 22.03.2016 and to quash the same in so far

as the direction to file security in the form of Bank Guarantee or immovable property and to direct the 2nd respondent to accept Personal Bond in lieu of Bank Guarantee for the balance of 50% of tax due of Rs.47,292/- and Rs.7,00,554/-.

2.By the impugned orders dated 22.03.2016, the respondent granted an order of interim stay in respect of the proceedings dated 27.07.2015 on condition the petitioner paying a sum of Rs.2,92,258/- and Rs.23,291/- being 25% of the tax before the Assessing Authority. With regard to the balance amount of tax and penalty of Rs.47,292/- (W.P.No.12936/2016) and Rs.7,00,554/- (W.P.No.12937/2016), the petitioner was directed to file a valid security in the form of Bank Guarantee obtained from any nationalized banks executed in favour of the Assessing Authority concerned. Against the direction given by the respondent to furnish the Bank Guarantee, the petitioner has come forward with the present Writ Petitions. The learned counsel for the petitioner submitted that the petitioner may be permitted to give personal bond instead of Bank Guarantee as directed by the respondent.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that the petitioner may be permitted to give personal bond instead of Bank Guarantee as directed by the 1st respondent.

4.Having regard to the submissions made by the learned counsel on either side, I am of the view that the petitioner can be permitted to give personal bond in lieu of the Bank Guarantee. Accordingly, I modify the order passed by the 1st respondent on 22.03.2016 by permitting the petitioner to execute a personal bond for a sum of Rs.47,292/- (W.P.No.12936/2016) and Rs.7,00,554/- (W.P.No.12937/2016) in favour of the concerned Assessing Authority within a period of two weeks from the date of receipt of a copy of this order instead of Bank Guarantee. In other aspects, the order passed by the 1st respondent on 22.03.2016 shall remain unaltered.

5.With these observations, the Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

va

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Appellate Deputy Commissioner (CT),
Chennai South, No.1, Greams Road,
Chennai - 600 006.

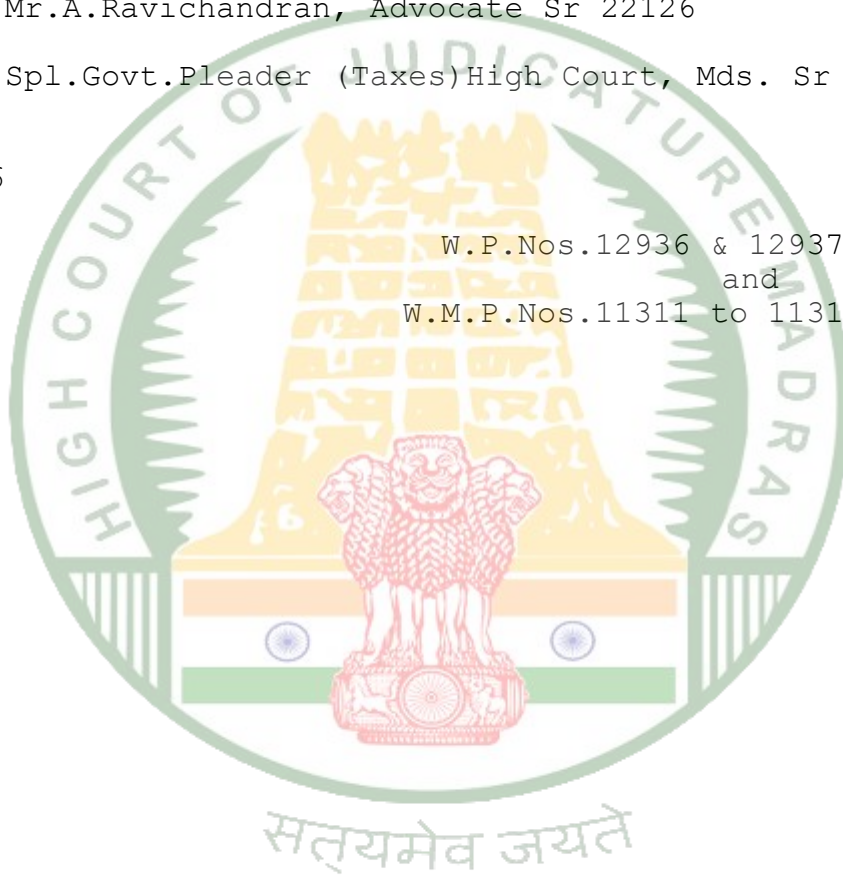
2.The Commercial Tax Officer,
Ambattur Assessment Circle,
No.5, South High Court Colony,
Villivakkam, Chennai - 600 049.

+ 1 cc to Mr.A.Ravichandran, Advocate Sr 22126

+ 1 cc to Spl.Govt.Pleader (Taxes)High Court, Mds. Sr 22242

KR/13/4/16

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