

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:- 01.06.2016

Coram

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.14023 to 14026 of 2016

and

W.M.P.Nos.12256 to 12259 of 2016

W.P.No.14023 of 2016

Bhartiya International Limited
Rep.by its Authorized Signatory
C.Deenadayalan, Now No.76,
Old No.118/12, Vepery High Road,
Periamet, Chennai-600 ... Petitioners

Vs

- 1 Appellate Deputy Commissioner (CT) Central
Commercial Tax New Building
3rd Floor, Greams Road, Chennai-600 006.
- 2 Commercial Tax officer
Vepery Assessment Circle
No.10, Greams Road, Chennai-600 006. ... Respondents

W.P.No.14023 of 2016 is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent passed in S.P.No.4/2016 in VAT No.60/2016 dated 23.03.2016 and quash the same and further direct the second respondent to accept personal bond for sum of Rs.70,78,541/- pending disposal of appeal in VAT 60/2016 before the first respondent.

W.P.No.14024 of 2016

Bhartiya International Limited
Rep.by its Authorized Signatory
C.Deenadayalan ... Petitioner

Vs

- 1.Appellate Deputy Commissioner
(CT) Central Commercial Tax New Building
3rd Floor, Greams Road,
Chennai-600 006.

2.Commercial Tax officer
Vepery Assessment Circle
No.10, Greams Road, Chennai-600 006.

... Respondents

W.P.No.14024 of 2016 is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent passed in S.P.No.5/2016 in VAT No.61/2016 dated 23.03.2016 and quash the same and further direct the second respondent to accept personal bond for sum of Rs.85,07,160/- pending disposal of appeal in VAT 61/2016 before the first respondent.

W.P.No.14025 of 2016

Bhartiya International Limited
Rep.by its Authorized Signatory
C.Deenadayalan

... Petitioner

Vs

- 1 Appellate Deputy Commissioner (CT) Central
Commercial Tax New Building
3rd Floor, Greams Road, Chennai-600 006.
- 2 Commercial Tax officer
Vepery Assessment Circle
No.10, Greams Road, Chennai-600 006.

... Respondents

W.P.No.14025 of 2016 is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent passed in S.P.No.6/2016 in VAT No.62/2016 dated 23.03.2016 and quash the same and further direct the second respondent to accept personal bond for sum of Rs.1,01,16,342/- pending disposal of appeal in VAT 62/2016 before the first respondent.

W.P.No.14026 of 2016

Bhartiya International Limited
Rep.by its Authorized Signatory
C.Deenadayalan

... Petitioner

Vs

1. Appellate Deputy Commissioner
(CT) Central Commercial Tax New Building
3rd Floor, Greams Road,
Chennai-600 006.

2 Commercial Tax officer
Vepey Assessment Circle
No.10, Greams Road, Chennai-600 006.

... Respondents

W.P.No.14026 of 2016 is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent passed in S.P.No.7/2016 in VAT No.63/2016 dated 23.03.2016 and quash the same and further direct the second respondent to accept personal bond for sum of Rs.1,80,74,109/- pending disposal of appeal in VAT 63/2016 before the first respondent.

For Petitioner in all W.Ps. : Mr.N.Murali

For Respondents in all W.Ps.: Mr.S.Kanmani Annamalai

Additional Government Pleader

C O M M O N O R D E R

In all these four cases, the petitioner, who is the registered dealer under the provisions of TNVAT Act, has challenged the order passed by the Appellate Deputy Commissioner (CT) Central, Chennai, in the stay applications filed by the petitioner in the Appeal Petitions filed against the order of assessment for the assessment years 2010-11 to 2013 -14.

2. The petitioner at the time of filing the Appeal has deposited 25% of the disputed amount of tax and the total amount so deposited in all four cases is Rs.87,55,269/-. Added to that the respondent / appellate authority has now directed the petitioner to furnish bank guarantee to the tune of Rs.2,20,07,535/- for all the four appeals. The petitioner is aggrieved by this order and has filed these Writ Petitions.

3. It is not in dispute that the petitioner is entitled for refund of tax paid and since the refund applications were not processed, the petitioner had filed a Writ Petition before this Court in W.P.No.9783 of 2016. The said Writ Petition was disposed of by order dated 16.03.2016 by directing the Assessing Officer to consider the application filed for refund of tax in Form-W under Section 18(3) of the TNVAT Act and pass appropriate orders within eight weeks. Pursuant thereto, two refund orders dated 18.05.2016 and 23.05.2016 have been passed and the petitioner has received the refund of Rs.13,44,408/- and Rs.10,91,411/- respectively. It is submitted that the total amount of refund claimed by the petitioner is Rs.4,13,29,805/-.

4. Considering the facts and circumstances of the case, this Court is inclined to modify the condition imposed by the Appellate Authority by directing the petitioner to file a

personal bond in respect of the amount now directed to be furnished as bank guarantee, which is total sum of Rs.2,20,07,535/-. Further as and when refund claims are processed and orders are issued, it is open to the authorities to adjust the said amount from and out of the pre-deposit made by the petitioner to the extent of Rs.87,55,269/-. On the petitioner furnishing personal bond, the Appellate Authority is directed to take up the Appeal for disposal as expeditiously as possible.

5. With the above directions, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mra

To:

- 1 Appellate Deputy Commissioner (CT) Central
Commercial Tax New Building
3rd Floor, Greams Road, Chennai-600 006.
- 2 Commercial Tax officer
Vepery Assessment Circle
No.10, Greams Road, Chennai-600 006.

+4ccs to Mr.N. Murali, Advocate, S.R.No.29672

+1cc to the Government Pleader, S.R.No.29361

CTK(CO)

EU(10/06/2016)

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and
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