IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2016

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.150 to 154 of 2016

and

WMP Nos.83 to 87 of 2016

SPI Cinemas Private Limited
represented by its Director
K.Niranjan Reddy
Chennai-14 ... Petitioner in all WPs

Vs

1. The Appellate Deputy Commissioner (CT) East,
3rd Floor, PAPJM Buildings,
Greams Road,
Chennai 600 006.

2. The Commercial Tax Officer,
Royapettah Assessment Circle,
No.46, Greenways Road,
Chennai 600 028. ... Respondents in all WPs

WP.150/2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the impugned proceedings of the first respondent passed in S.P. No.373/2015 in APV/393/2015 dated 11.12.2015 and quash the same insofar as directing the petitioner to furnish Bank Guarantee for tax and penalty of Rs.7,54,430/- and further direct the first respondent to accept personal bond for the sum of Rs.7,54,430/- instead of Bank Guarantee pending disposal of appeal in APV.393/2015.

WP.151/2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the impugned proceedings of the first respondent passed in S.P. No.371/2015 in APV/391/2015 dated 11.12.2015 and quash the same insofar as directing the petitioner to furnish Bank Guarantee for tax and penalty of Rs.8,63,609/- and further direct the first respondent to accept personal bond for the sum of Rs.8,63,609/- instead of Bank Guarantee pending disposal of appeal in APV.391/2015.

WP.152/2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the impugned proceedings of the first respondent passed in S.P. No.370/2015 in APV/390/2015 dated 11.12.2015 and quash the same insofar as directing the petitioner to furnish Bank Guarantee for tax and penalty of Rs.18,00,731/- and further direct the first respondent to accept personal bond for the sum of Rs.18,00,731/- instead of Bank Guarantee pending disposal of appeal in APV.390/2015.

WP.153/2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the impugned proceedings of the first respondent passed in S.P. No.369/2015 in APV/389/2015 dated 11.12.2015 and quash the same insofar as directing the petitioner to furnish Bank Guarantee for tax and penalty of Rs.22,53,773/- and further direct the first respondent to accept personal bond for the sum of Rs.22,53,773/- instead of Bank Guarantee pending disposal of appeal in APV.389/2015.

WP.154/2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the impugned proceedings of the first respondent passed in S.P. No.368/2015 in APV/388/2015 dated 11.12.2015 and quash the same insofar as directing the petitioner to furnish Bank Guarantee for tax and penalty of Rs.24,54,019/- and further direct the first respondent to accept personal bond for the sum of Rs.24,54,019/- instead of Bank Guarantee pending disposal of appeal in APV.388/2015.

For Petitioner : Mr.N.Murali in all WPs
For Respondents : Mr.S.Manoharan Sundaram, AGP(T) in all Wps

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), who took notice for the respondents and with their consent, all these writ petitions are taken up for final disposal.

2. The petitioner has come forward with these writ petitions challenging the orders dated 11.12.2015 passed by the first respondent, imposing a condition that the petitioner should furnish bank guarantee for the balance tax amount along with penalty in the prescribed manner in fulfilment of the conditions stipulated in Rule 14(15) read with the proviso to

section 52(4) of the Tamil Nadu Value Added Tax Act 2006 on or before 11.01.2016 during the currency of appeal proceedings.

3. The petitioner filed appeals before the first respondent challenging the Assessment orders passed by the second respondent. The appeals were taken on file by the first respondent along with stay petitions filed by the petitioner. In the stay petitions, the Appellate Authority was pleased to grant an order of stay directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 11.01.2016. The Appellate Authority also imposed a further condition directing the petitioner to furnish bank guarantee in respect of balance amount of tax and penalty in the stay petitions. The said onerous condition is challenged in these writ petitions.

4. The petitioner has paid 25% of the disputed tax for the respective assessment years at the time of filing the appeals. Further, as directed by the Appellate Authority, the petitioner also made payment of another 25% of the disputed amount on 29.12.2015 and produced the proof of payment. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the balance tax amount and penalty.

5. This Court, in catena of decisions, directed the assessees to execute a personal bond in lieu of furnishing bank guarantee.

6. Therefore, all these writ petitions are disposed of with a direction to the petitioner to execute personal bond for the balance tax amount and penalty for each assessment year from 2009-2010 to 2013-2014 in lieu of furnishing bank guarantee, within a period of two weeks from the date of receipt of a copy of this order. On such executing the personal bond, the order of stay granted by the first respondent shall be in force till the disposal of the appeals. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CO)
dt:19/01/2016

True Copy

Sub-Assistant Registrar

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To

1. The Appellate Deputy Commissioner (CT) East,
   3rd Floor, PAPJM Buildings,
   Greams Road,
   Chennai 600 006.

2. The Commercial Tax Officer,
   Royapettah Assessment Circle,
   No.46, Greenways Road,
   Chennai 600 028.

+5 ccs to Mr.N.Murali Advocate sr.522
+1 cc to Special Governmnet Pleader sr.1234

W.P.Nos.150 to 154 of 2016

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aa19/01/2016