IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.05.2016

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.Nos.18016 to 18021 of 2016
and WMP.Nos.15810 to 15815 of 2016

M/s.Divya Agency
rep. by its Partner,
No.1850, I Block,
6th Avenue, Near Thangam Colony,
Anna Nagar, Chennai-40. ... Petitioner in all W.Ps.

Vs

1 The Appellate Deputy Commissioner (CT)
Central, CT New Building,
Third Floor, Chennai-6

2 The Assistant Commissioner (CT)
Amindakarai Assessment Circle,
Chennai. ... Respondents in all W.Ps.

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus to call for the records of the 1st respondent in the impugned proceedings in S.P. Nos.18, 19, 20 of 2016, 381, 382 and 383 of 2015 in AP. V Nos.72, 52, 53 of 2016, 479, 480 and 481 of 2015 respectively dated 31.03.2016, quash the same and the petitioner may be directed to give a personal bond in substitution of the Bank Guarantee in respect of the amount of balance of tax and penalty to the extent of Rs.15,05,883/-, 19,80,198/-, 19,88,408/-, 4,71,664/-, 6,61,288/- and Rs.10,01,704/- pending disposal of the statutory appeals in APV.Nos.72, 52, 53 of 2016, 479, 480 and 481 of 2015, pending with the first respondent.

For Petitioner : Mr.K.Vaitheeswaran
For Respondents : Mr.V.Haribabu, AGP(T)

C O M M O N O R D E R

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

2. The petitioner has come forward with these writ petitions challenging the orders dated 31.03.2016 on the file of the 1st respondent, imposing a condition that the petitioner should furnish a bank guarantee for the balance tax amount and penalty, during the currency of appeal proceedings.

3. The petitioner filed appeals before the 1st respondent challenging the Assessment orders passed by the 2nd respondent for the assessment years 2007-2008 to 2011-2012 and 2013-14. The appeals were taken on file by the 1st respondent along with stay petitions filed by the petitioner. The appellate authority was pleased to grant an order of stay in all the stay petitions, directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority on or before 30.09.2016. 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 all 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 and produced 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, the writ petitions are disposed of with a direction to the petitioner to execute personal bond for the balance tax amount and penalty for the respective assessment years, 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 bonds, the order of stay granted by the 1st respondent shall be in force till the disposal of the appeals. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

1 The Appellate Deputy Commissioner (CT)
Central, CT New Building,
Third Floor, Chennai-6

2 The Assistant Commissioner (CT)
Amindakarai Assessment Circle,
Chennai.

+ 1 cc to the Special Govt.Pleader (Taxes), SR 28579

+ 1 cc to Mr.K.Vaitheeswaran, Advocate SR 28415

ppa(co)
prk25/5

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