

In the High Court of Judicature at Madras

Dated : 03.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.18725 of 2016 & WMP.No.16349 of 2016

M/s.Oliyas Construction rep.
by its Partner Huzaifa Zoeb

...Petitioner

Vs

1.The Assistant Commissioner (CT),
Adyar Assessment Circle, Chennai-28.

2.The Appellate Deputy Commissioner
(CT) (East), Chennai-6.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in S.P.No.45/2016 in APV.36/2016 dated 9.5.2016, quash the same as illegal and direct the second respondent to grant absolute stay for the entire penalty amount of Rs.4,61,939/- without insisting upon furnishing of bank guarantee till the disposal of the appeal in AP.36/2016 (VAT).

For Petitioner : Mr.P.Prithvi Chopda

For Respondents: Mr.S.Kanmani Annamalai, AGP

ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act. The petitioner has challenged the order passed by the second respondent while granting an order of stay.

3. It is not in dispute that the petitioner has paid the entire tax and with regard to penalty, the second respondent directed the petitioner to furnish bank guarantee. In my view, since the tax amount has already been paid, it would suffice if

the petitioner is directed to execute a personal bond in lieu of bank guarantee.

4. Accordingly, the writ petition is partly allowed and paragraph 9(ii) of the impugned order stands modified and the petitioner is directed to execute a personal bond for the penalty before the second respondent in lieu of bank guarantee.

"The Personal bond shall be kept valid till the disposal of the Appeals." No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CS-VII)
Dated:07/06/2016

*In Para 4, the above sentence is incorporated as per order of this Court dated 10.6.2016 and made therein.

Sd/-
Assistant Registrar(CS-VI)
Dated:14/06/2016)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (CT),
Adyar Assessment Circle,
Chennai-28.

To be substituted to the
order already despatched on
9.6.2016

2.The Appellate Deputy Commissioner
(CT) (East),
Chennai-6.

1 cc to Mr.T.Pramodkumar Chopda, Advocate, sr.*31286
1 cc to Special Government Pleader(Taxes), sr.29941

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WMP.No.16349 of 2016

bvr co
kra 07.06.2016
srg 14/06/2016

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