

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.20447 and 20448 of 2016
&
W.M.P.Nos.17552 and 17553 of 2016

M/s.Mahaveer Communication
Rep. by its Authorised Signatory
No.3, Kasi Chetty Lane
Chennai

.. Petitioner in both W.Ps

Vs.

1. The Appellate Deputy Commissioner (CT)
North Division
Greams Road, Chennai

2. The Assistant Commissioner (CT)
NSC Bose Road Assessment Circle
Chennai

.. Respondents in both W.Ps

Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the first respondent in S.P.No.37/16 in APV No.43/16 and S.P.No.36/16 in APV No.42/16, dated 19.05.2016 and quash the same and further direct the first respondent to grant an absolute stay for the balance of tax and penalty amount without insisting upon furnishing of bank guarantee till the disposal of the appeal on the files of the first respondent.

For Petitioner : Mr.C.Rekha Kumari
in both W.Ps

For Respondents : Mr.Manokaran Sundaram
in both W.Ps Additional Government Pleader

COMMON ORDER

The writ petitions are directed against the orders of the first respondent in S.P.No.37/16 in APV No.43/16 and S.P.No.36/16 in APV No.42/16, dated 19.05.2016, imposing a condition that the petitioner should furnish bank guarantee for the entire penalty to the tune of Rs.1,69,985/- and Rs.1,20,403/- respectively, during the currency of the appeal proceedings.

2.The petitioner filed appeal 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 the stay petitions filed by the petitioner. The petitioner paid the entire tax dues even before the assessment orders were passed. The Appellate Authority granted stay by directing the petitioner to furnish bank guarantee for the entire penalty imposed by the Assessing Officer. This condition is challenged as onerous condition in these writ petitions.

3. Heard Mr.C.Rekha Kumari, learned counsel for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader for the respondents.

4. Admittedly, the petitioner has paid the entire tax before even the orders of assessment were passed. However, as directed by the Appellate Authority, the petitioner is required to furnish bank guarantee for the entire penalty. The only grievance of the petitioner is that they were asked to furnish bank guarantee for the entire penalty.

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

6.Therefore, these writ petitions are disposed of with a direction to the petitioner to execute personal bonds for the entire penalty in lieu of furnishing bank guarantees within a period of two weeks from the date of receipt of a copy of this order. On such executing the personal bonds, the orders of stay

granted by the first respondent shall be in force till the disposal of the appeals. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Appellate Deputy Commissioner (CT),
North Division,
Grems Road, Chennai.
2. The Assistant Commissioner (CT),
NSC Bose Road Assessment Circle,
Chennai.

+1cc to Ms.C.Rekhakumar, Advocate Sr.33189
+1cc to the Special Government Pleader Sr.33534

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srg 06/07/2016

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