

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21365 of 2016

&

W.M.P.No.18293 of 2016

M/s.Mahaveer Communication

Rep. by its Authorised Signatory

No.3, Kasi Chetty Lane

Chennai

... Petitioner

Vs.

1. The Appellate Deputy Commissioner (CT)

North Division,

Greens Road, Chennai

2. The Assistant Commissioner (CT)

NSC Bose Road Assessment Circle

Chennai

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the first respondent in S.P.No.38/16 in VAP No.44/16, dated 19.05.2016 and consequential Erratum dated 14.06.2016 and quash the same and further direct the first respondent to grant an absolute stay for the balance of tax and entire penalty amount without insisting upon furnishing of bank guarantee till the pending disposal of the appeal on the files of the first respondent.

For Petitioner : Ms.C.Rekha Kumari

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

ORDER

Heard Ms.C.Rekha Kumari, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who accepts notice for the respondents and with their consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner has filed this writ petition challenging the order of the 1st respondent in S.P.No.38/16 in VAP No.44/16, dated 19.05.2016, imposing a condition that the petitioner should furnish a bank guarantee for the balance tax amount and entire penalty amount, during the currency of the appeal proceedings.

3.The petitioner filed an appeal before the 1st respondent challenging the Assessment Order passed by the 2nd respondent. The appeal was taken on file by the first respondent along with stay petition filed by the petitioner. The Appellate Authority was pleased to grant an order of stay in the said petition, directing the petitioner to furnish bank guarantee in respect of the balance of tax and penalty amount on or before 18.06.2016.

4.According to the learned counsel for the petitioner, the said condition is an onerous and hence, seeks interference of this Court.

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

6.Therefore, the writ petition is disposed of, with a direction to the petitioner to execute personal bond for the balance of tax and entire penalty, 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 appeal. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

sgl
To

Sub Assistant Registrar

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.Rekha Kumari, Advocate, S.R.No.35081

+1cc to the Special Government Pleader(T), S.R.No.34861

W.P.No.21365 of 2016

GJ(CO)

CA(04/07/2016)