IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.08.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.Nos.30176 to 30179 of 2016
and
WMP.Nos.26151 to 26154 of 2016

M/s.Harinarayanan Structurals
Private Limited,
Rep. by its Managing Director,
66B, 2nd Floor, River View Enclave,
IPS Colony, Manapakkam,
Chennai-600 125. ..Petitioner in all Wps

Vs

1.The Appellate
Deputy Commissioner (CT) East,
C.T. New Building, 3rd Floor,
Greams Road, Chennai-600 006.

2.The Assistant Commissioner(CT),
Alwarpet Assessment Circle,
Chennai. ..Respondents in all Wps

Writ petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the first respondent in SP.No.82/16 in APV.98/16, SP.No.83/16 in APV.99/16, SP.No.84/16 in APV.100/16 and SP.No.85/16 in APV.101/16 respectively dated 04.08.2016 and quash the same and further direct the first respondent to grant an absolute stay for the balance of tax without insisting upon further payment and furnishing of security pending disposal of the appeals on the file of the first respondent.

For Petitioner in all WPs : Ms.Hema Muralikrishnan

For Respondents in all WPs : Mr.K.Venkatesh, GA

COMMON ORDER

Heard Ms.Hema Muralikrishnan, learned counsel appearing for the petitioner. Mr.K.Venkatesh, learned Government Advocate accepts notice on behalf of the respondents. With the consent of either side, the writ petitions are taken up for disposal.

2.In all these Writ Petitions, the petitioner challenges the orders passed by the 1st respondent/Appellate Authority in the stay petitions filed by the petitioner as against the orders of assessment under the provisions of Tamil Nadu Value Added Tax, 2006 for the assessment years 2011-2012, 2012-2013, 2013-2014 and 2014-2015. It is not in dispute that the petitioner has paid the entire tax and sought for stay of the penalty, which has been imposed on the petitioner in the impugned assessment orders. The Appellate Authority, while granting interim order, directed the petitioner to furnish Bank Guarantee for the entire penalty amount.

3. This Court is of the view that the tax having already been fully paid, the interest of revenue would be protected, if a bond is directed to be furnished by the petitioner for the penalty amount, instead of Bank Guarantee. The petitioner being a registered dealer and transacting the business within the jurisdiction of the 2nd respondent, in the event of the petitioner not able to succeed in the appeal, it will be always open to the 2nd respondent to recover the penalty in accordance with law.

4. Accordingly, the Writ Petitions are disposed of by modifying the impugned orders passed by the 1st respondent and directing the petitioner to file a personal bond, instead of Bank Guarantee for the said amount of penalty imposed on the petitioner for all the assessment years and keep the bond alive, till the disposal of the appeal before the 1st respondent. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

gya/cse
To
1.The Appellate Deputy Commissioner (CT) East,
C.T. New Building, 3rd Floor,
Greams Road, Chennai-600 006.

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

+1cc to Mr.L. Muralaikrishnan, Advocate, S.R.No.49167
+1cc to the Government Pleader, S.R.No.49114

SV(CO)
EU(20/09/2016)