IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.36816 of 2016
and
W.M.P.Nos.31648 & 31649 of 2016

Tvl. Sree Janya Foundation,
Represented by its Proprietor,
No.50/33, 2nd Floor, Reddy Street,
Villivakkam, Chennai - 600 049 ... Petitioner

Versus

1. The Appellate Deputy Commissioner (CT),
   Chennai Central,
   Chennai - 600 006.

2. The Commercial Tax Officer,
   Villivakkam Assessment Circle,
   Chennai - 600 009 ... Respondents

Prayer:- Writ 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.68/2016 in A.P.No.167/2016, dated 22.09.2016, quash the same, in so far as the direction to file security in the form of Bank Guarantee or immovable property and to direct the second respondent to accept personal bond in lieu of bank guarantee for the balance of entire penalty of Rs.9,90,990/-.

For Petitioner : Mr.R.Ganesh Kanna

For Respondents : Mr. K.Venkatesh,
Government Advocate (Taxes)

O R D E R

Heard Mr.R.Ganesh Kanna, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate (Taxes), appearing for the respondents. By consent of the learned counsel for both sides, the writ petition itself is taken up for final disposal.

2. The petitioner has preferred an appeal before the first respondent, against the order of assessment passed by

the second respondent, dated 06.06.2016, in respect of the assessment year 2015-16 under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The said Appeal has been taken on file as A.P.(VAT) No.167/2016. The petitioner, at the time of filing the appeal, has paid the entire disputed tax and sought for stay of payment of penalty, which has been quantified in the assessment order, by filing a Stay Petition in S.P.No.68/2016. The Appellate Authority, namely, the first respondent, by the impugned order, directed the petitioner to furnish Bank Guarantee for the entire amount.

3. Considering the fact that the petitioner has already paid the entire disputed tax, this Court is of the view that the interest of Revenue will be safeguarded, if the petitioner is directed to furnish a Bond for the entire penalty amount, instead of Bank Guarantee. This is more so, because, the petitioner is a registered dealer on the file of the second respondent and has been regularly filing the returns.

4. Accordingly, the writ petition is allowed and the impugned order stands modified, by directing the petitioner to furnish a Bond to the full value of the penalty, which has been quantified and keep the Bond alive, till the disposal of the Appeal in A.P.(VAT) No.167/2016. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Appellate Deputy Commissioner (CT),
   Chennai Central,
   Chennai - 600 006.

2. The Commercial Tax Officer,
   Villivakkam Assessment Circle,
   Chennai - 600 009.

+1cc to Mr.A.Ravichandran, Advocate, S.R.No.60227
+1cc to the Special Government Pleader(T), S.R.No.60122

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NR(CO)
CA(25/10/2016)