

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.38060 of 2016 &
W.M.P.No.32619 of 2016

M/s.Rite Brand Retail (P) Ltd
Rep by Authorised Signatory
M.Imthiz Ahmed
P. No.32, G Block RE Classic Apartment
New No. 68 Baroda Street
West Mambalam
Chennai-600 033 ... Petitioner

vs.

- 1 The Appellate Deputy Commissioner
(CT) Central
No.1 Greaves Road
Egmore
Chennai-600 006
- 2 The Assistant Commissioner (CT)
Kodambakkam Assessment Circle NO.1
PAPJM Building Annexe
4th Floor Greaves Road
Chennai-600 006. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in S.P. No.70/2016 in A.P.C.49/ 2016 quash the impugned order dated 27.09.2016 in so far as it relates to the furnishing of bank guarantee for the balance of tax Rs.72,165/- Rs.2,16,500/- pending disposal of the appeal in A.P.C.49/ 2016.

For Petitioner : Mr.V.Sundareswaran

For Respondents: Mr.S.Kanmani Annamalai
Addl. Govt. Pleader

O R D E R

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who accepts notice on behalf of the respondent and with the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for disposal.

2.The petitioner has come forward with this Writ Petition challenging the order passed by the first respondent/Appellate Authority in the Stay Petition filed by the petitioner in A.P.C.49/ 2016 , challenging the order of assessment dated 17.08.2015, under the CST Act, for the year 2010-11, passed by the second respondent.

3.At the time of filing the Appeal, the petitioner has effected mandatory pre-deposit of 25% and while granting interim order, the first respondent has directed another 25% of the disputed tax to be paid. The petitioner is aggrieved by the direction to furnish Bank Guarantee for the balance amount.

4.In the considered view of this Court, since the petitioner is a registered dealer on the file of the second respondent and regularly filing returns, the interest of Revenue stands sufficiently protected as already 50% of the disputed tax has been paid. Therefore, it would suffice to furnish a bond for the remaining balance, instead of Bank Guarantee.

5.Accordingly, the Writ Petition is partly allowed and the impugned order is modified only to the extent where direction has been given to furnish Bank Guarantee, instead of which the petitioner shall furnish the bond for the full value and keep the bond alive till the disposal of the Appeal before the first respondent. The petitioner is directed to furnish the Bond, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rpa

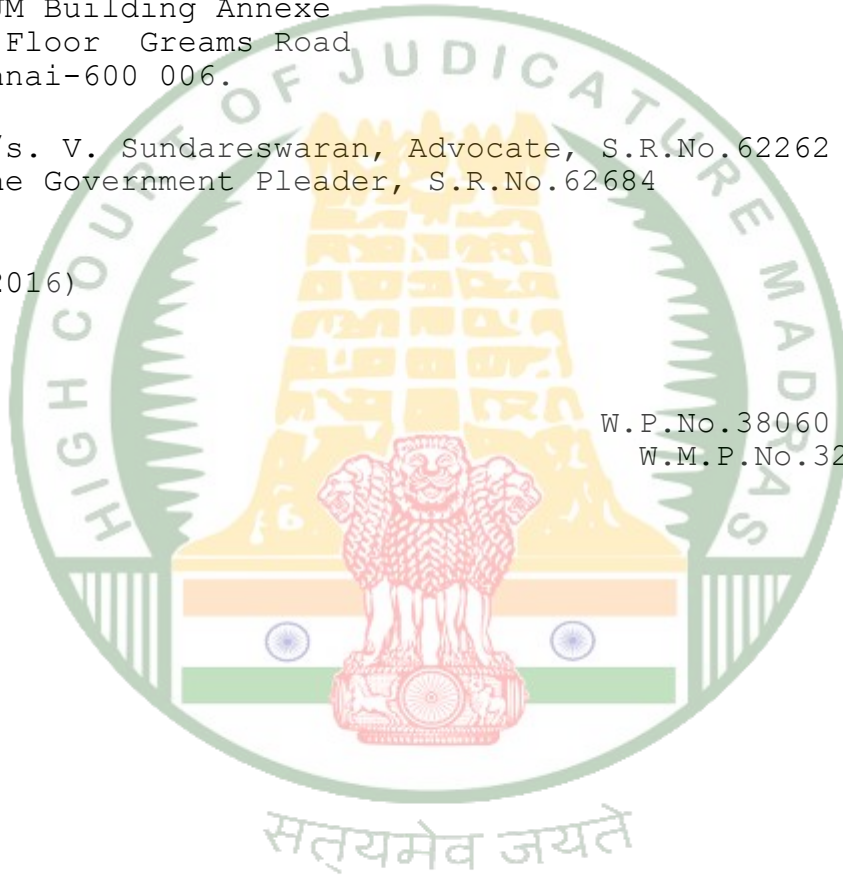
To

- 1 The Appellate Deputy Commissioner (CT) Central
No.1 Greams Road
Egmore
Chennai-600 006
- 2 The Assistant Commissioner (CT)
Kodambakkam Assessment Circle NO.1
PAPJM Building Annexe
4th Floor Greams Road
Chennai-600 006.

+1cc to M/s. V. Sundareswaran, Advocate, S.R.No.62262
+1cc to the Government Pleader, S.R.No.62684

NR(CO)
EU(25/11/2016)

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