

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.43427 of 2016
and W.M.P.No.37285 of 2016

M/s.Moserbaer Entertainment Limited,
Rep by its Authorised Signatory,
Mr.A.V.Ravindranath

... Petitioner

vs.

1.The Appellate Deputy Commissioner (CT)-Central,
No.1, Greams Road, Egmore, Chennai - 600 006.

2.The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
Chennai - 600 006.

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, call for the records of the first respondent in S.P.No.90/2016 in A.P.V.182/2016, quash the order dated 11.11.2016 in so far as it relates to the furnishing of bank guarantee for the balance of tax of Rs.13,64,783/- pending disposal of the above appeal in A.P.V.182/2016.

For Petitioner : Mr.Sundareswaran

For Respondents : Mr.Kanmani Annamalai,
Additional Govt. Pleader.

ORDER

1. Issue notice. Mr.Kanmani Annamalai, accepts notice on behalf of the respondents. With the consent of counsel for parties, the writ petition is taken up for final disposal.

2. The petitioner via this writ petition has assailed the order dated 11.11.2016, on the ground that it is onerous.

3. It is not disputed by Mr.Kanmani Annamalai, learned counsel for the respondent that 50% of the disputed tax have been paid.

4. The petitioner is aggrieved by the fact that by virtue of

the impugned order, the petitioner has been directed to furnish a bank guarantee for the balance disputed tax equivalent to a sum of Rs.13,64,783/- (Rupees Thirteen Lakhs Sixty Four Thousand Seven Hundred and Eighty Three only).

5. The petitioner relies upon the orders dated 02.08.2016, passed in W.P.No.26915 of 2016, titled: RCL Retail Private Ltd Vs. The Appellate Deputy Commissioner (CT)-II and another, as well as, the order dated 17.06.2013, passed in W.P.No.8641 of 2013, titled: Vijayalakshmi Corporation Vs. The Appellate Deputy Commissioner (CT)-II and another, to and would contend that the impugned order may be modified by supplanting the condition to furnish bank guarantee with that of a personal bond.

6. Mr.Kanmani Annamalai, says that consistent with the view taken by this Court in the aforementioned cases, such modification can be ordered.

7. Accordingly, the impugned order is modified to the extent that instead of a bank guarantee, the petitioner would furnish a personal bond within two (2) weeks from the date of receipt of a copy of the order. Upon of a personal bond being furnished as required, there shall be a stay of the order impugned in the appeal pending before the first respondent.

8. The Writ Petition is disposed of in terms of the aforesaid directions. There shall, however, be no order as to costs. Resultantly, the connected application is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vsm
To

1.The Appellate Deputy Commissioner (CT)-Central,
No.1, Grems Road, Egmore, Chennai - 600 006.

2.The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
Chennai - 600 006.

+lcc to Mr.V.V.Ramesh, Advocate sr.73621

+lcc to The Special Government Pleader(Taxes) sr.73643

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sk(co)
ss(12/01/2017)