

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.Nos.43844 & 43845 of 2016
and W.M.P.No.37670 of 2016
in W.P.No.43844 of 2016

M/s.Hotel Palmgrove,
rep by Shri K.Jayavarmaraj Ballal,
Managing Director,
13, Kodambakkam High Road,
Chennai - 34.Petitioners in both W.Ps.

Vs.

- 1.The Appellate Deputy Commissioner (CT),
Chennai (Central), 3rd Floor,
Grems Road, Chennai.
- 2.The Assistant Commissioner (CT),
T.Nagar Assessment Circle,
Chennai - 28. Respondents in both W.Ps

Writ petitions filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified mandamus, calling for the records on the file of the 1st respondent in S.P.No.91/16 in AP.VAT.229/16 and S.P.No.92/16 in AP.VAT.230/16 respectively dated 28.11.2016 and quash the same as invalid and illegal in so far as the order relates to the condition relating furnishing of bank guarantee is concerned and further direct the petitioners to file a personal bond in lieu of bank guarantee.

For Petitioner : Mr.C.Venkatraman
(in both W.Ps.)
For Respondents : Mr.K.Venkatesh,
(in both W.Ps.) Government Advocate

C O M M O N O R D E R

1. Issue notice. Mr.K.Venkatesh, accepts notice on behalf of the respondents. With the consent of counsel for parties, the Writ Petitions are taken up for hearing and final disposal.

2. The petitioner is aggrieved by the order passed by the first respondent in the stay petitions preferred before him in the pending Appeals. Record shows that the petitioner has filed Appeals pertaining to Assessment Years 2013-14 and 2014-15. The Appeals are pending consideration of the first respondent.

2.1 It is the case of the petitioner that he has already deposited 50% of the disputed tax and is therefore, aggrieved by the onerous condition put forth by the first respondent that the balance amount to be secured by way of Bank Guarantee.

3. The learned counsel for the petitioner says that this Court, via, order dated 15.09.2016, passed in W.P.No.32191 of 2016, titled M/s.Eversendai Construction Private Limited Vs. The Appellate Deputy Commissioner (CT) and another, has permitted the petitioner in that case to furnish a personal bond for the balance tax and penalty in lieu of bank guarantee.

4. Mr.K.Venkatesh, says that similar order could be passed in the present case as well.

5. Accordingly, the impugned orders are modified to the extent that the petitioner will furnish personal bonds for the balance tax and penalty amount to the satisfaction of the second respondent. Upon personal bonds being furnished, there shall be an order of stay of the orders impugned in the Appeals pending before the first respondent. Needful be done within two weeks on receipt of the certified copy of the order.

6. The Writ Petitions are disposed of in the aforesaid terms. There shall, however, be no order as to costs. The pending application is closed.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

va

To

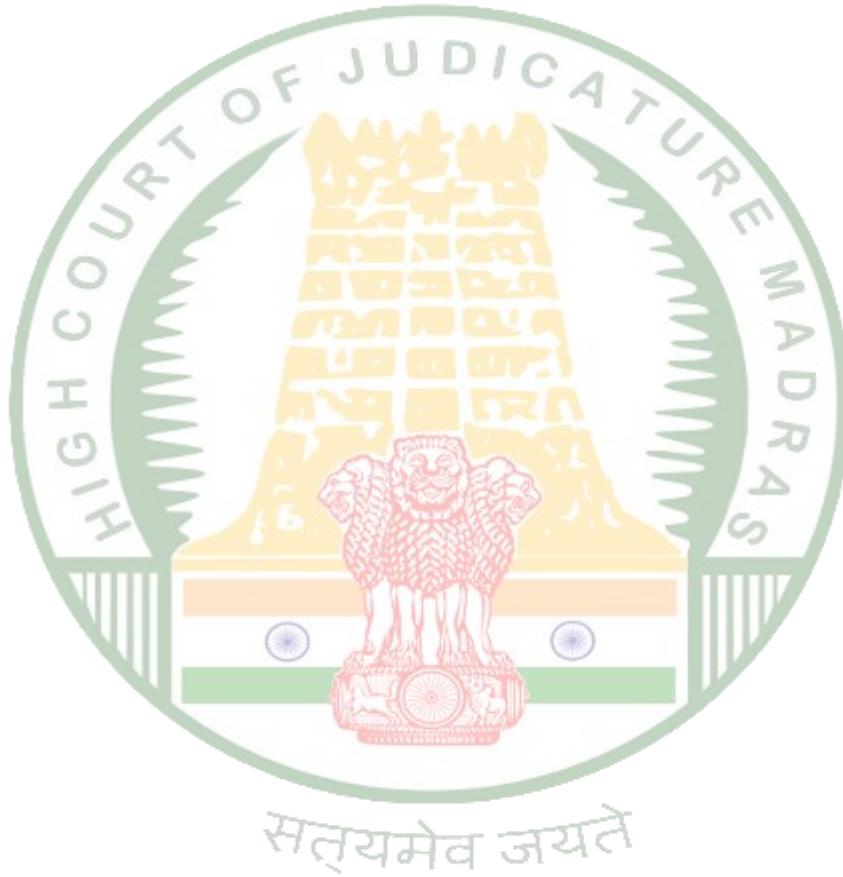
1. The Appellate Deputy Commissioner (CT),
Chennai (Central), 3rd Floor,
Greens Road, Chennai.

2.The Assistant Commissioner (CT),
T.Nagar Assessment Circle,
Chennai - 28.

1 cc to Spl. Government Pleader, (Taxes), Sr. 74670
1 cc to Mr.C. Venkataraman, Advocate, Sr. 74557

W.P.Nos.43844 & 43845 of 2016
and W.M.P.No.37670 of 2016
in W.P.No.43844 of 2016

MSM (CO)
kk 19/1



WEB COPY