

In the High Court of Judicature at Madras

Dated: 22.12.2016

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.44111 of 2016
& WMP No.37922 of 2016

M/s.Mangalam Foundation
rep. by its Partner

.... Petitioner

Vs.

1. The Appellate Deputy Commissioner (CT),
North Division, C.T.Building Annexe,
3rd Floor, Greams Road, Chennai.

2. The Commercial Tax Officer,
Peddunaickenpet Assessment Circle,
No.48/39, Rajaji Salai, Wavoo Mansion,
3rd Floor, Chennai - 01.

.... Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent in SP.No.97/16 in APVNo.170/16, dated 01.12.2016 and quash the same and further direct the first respondent to grant an absolute stay for balance of tax and entire penalty amount without insisting upon furnishing of security in the form of Bank Guarantee till the pending disposal of the appeal on the files of the first respondent.

For Petitioner : Ms.C.Rekha Kumari

For Respondents : Mr.K.Venkatesh, G.A.

O R D E R

1. Issue Notice. Mr.K.Venkatesh, accepts notice on behalf of the respondent.

2. With the consent of counsel for parties, the Writ Petition is taken up for hearing and final disposal.

3. Aggrieved by the order dated 01.12.2016, whereby a direction has been issued to furnish a bank guarantee for the balance disputed tax and penalty, in the sum of Rs.10,75,641/-, claimed by the Revenue for the purpose of consideration of the

appeal, the instant Writ Petition has been preferred.

4. To be noted, the appeal is pending before respondent No.1 and pertains to the Assessment Year 2015-2016.

5. Counsel for the petitioner says that uptill now 50% of the disputed tax has already been paid. The counsel further says that the petitioner is willing to furnish a personal bond for the balance disputed tax and penalty as against a bank guarantee sought for by the respondents.

6. In support of her submission, learned counsel for the petitioner relies upon an 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.

7. I have asked Mr.Venkatesh, as to whether, he would have any objection to the modification in the impugned order as sought for by the petitioner.

7.1. Mr.Venkatesh, says that the approach adopted in Vijayalakshmi' case, could be followed in this case as well.

8. Accordingly, the impugned order is modified to the extent that instead of a bank guarantee, the petitioner would furnish a personal bond for the balance amount of disputed tax and the entire penalty amount, within two (2) weeks from the date of receipt of a copy of the order. Upon such personal bond being furnished, there shall be a stay qua the Order-in-Original dated 30.05.2016, pending consideration of the appeal preferred before the first respondent.

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

सत्यमेव जयते
-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Appellate Deputy Commissioner (CT)
North Division, CT Building Annexe
3rd floor, Greend Road,
Chennai

2.The Commercial Tax Officer,
Peddunaickenpet Assessment Circle,
No.48/39, Rajaji Salai, Wavoo Mansion,
3rd Floor, Chennai - 01.

+1 cc to M/s.C.Rekhakumari Advocate sr 75993

+1 cc to Special Government Pleader (T) sr 75005

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