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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.02.2016**

CORAM:

THE HONOURABLE MR.JUSTICE **B.RAJENDRAN**

W.P(MD)No.3024 of 2016

TVL.Sri Durga Auto Spare Parts,
Rep. By its Proprietor T.Nagaraja,
No.1/93, Holy Cross Complex,
Vayaloor Main Road,
Somarasampettai, Trichy.

.. Petitioner

Vs.

1. The Appellate Deputy Commissioner(CT),
Trichy.

2. The Assistant Commissioner(CT),
Srirangam Assessment Circle, Trichy.

.. Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in SP No.14/2016 in VAT AP No.10/2016, dated 13.01.2016 on the file of the first respondent and quash the same as illegal and direct the second respondent to accept the personal bond to be executed by the petitioner in lieu of security and to pass such further orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner

: Mr. S.Karunakar

For Respondents

: Mr.R. Karthikeyan

Additional Government Pleader

O R D E R

This writ petition has been filed, challenging the order of the stay granted by the appellate authority on condition to deposit a further payment of Rs.51,957/- on the disputed Tax, and file a Security Bond or Bank guarantee for the balance of tax of Rs.5,71,716/- on or before 12.02.2016.

2. Mr.R.Karthikeyan, learned Additional Government Pleader takes notice on behalf of the respondents.

3. According to the petitioner, he has paid 25% of the disputed tax originally for preferring an appeal and thereafter, stay application was moved and he was directed to pay 25% and that amount has also been paid. Now, the petitioner is only concerned with the onerous condition of directing him to furnish bank guarantee for the remaining amount, as it will amount to double taxation.

4. The learned counsel for the petitioner also brought to the notice of this Court that this Court, in a similar circumstance, in a similar matter, in **W.P. (MD)No.20273 of 2013 dated 16.12.2013**, had



disposed of the Writ Petition, with a following direction. He also prays for a similar order to be passed.

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" In view of the above, the order of the appellate authority is confirmed in so far as payment of 15% of disputed tax is concerned and in so far as payment of bank guarantee is concerned, it is modified to one of furnishing a personal bond for the remaining amount as well as penalty. Such personal bond, shall be furnished, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the appellate authority shall dispose of the appeal itself, as expeditiously as possible."

5. In view of the above, the order of the appellate authority is confirmed in so far as payment of disputed tax is concerned and in so far as payment of bank guarantee is concerned, it is modified to one of furnishing a personal bond for the remaining amount as well as penalty. Such personal bond, shall be furnished, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the appellate authority shall dispose of the appeal itself, as expeditiously as possible.

6 . With the above modification, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Appellate Deputy Commissioner(CT), Trichy.
2. The Assistant Commissioner(CT),Srirangam Assessment Circle, Trichy.

+1cc to Mr.S.Karunakar, Advocate Sr.No.8240

+1cc to The Special Government Pleader Sr.No.8553

akm/18.02.2016/2p-5c/SKN/SK

W.P. (MD) No.3024 of 2016

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