IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.03.2017

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.6390 of 2017

and W.M.P.No.6893 o 2017

M/s Mahaluxmi Edible Oils Pvt.Ltd.
Rep by its Director, S.Srinivasan,
No.18/19, Vivekanand Nagar, First Street,
VRN Complex Bye Pass Road,
Gummidipoondi 601 201 .....Petitioner

Vs.

1. The Commmercial Tax Officer,
Gummidippondi Assessment Circle, No 38,
GNT Road, II Floor, Gummidipoondi 601 201

2. The Appellate Deputy Commissioner (CT),
III Floor Commercial Taxes Annexe Building,
Grams Road, Chennai - 600 006. ....Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the files of the second respondent in S.P.No.118/2016 in APC 42/2016 dated 20.02.2017 and quash the same as illegal and direct the second respondent to grant absolute stay for the balance disputed tax amount without insisting upon furnishing bank guarantee till the disposal of the appeal in APC.42/2016.

For Petitioner : Mr.T.Pramodkumar Chopda Reddy

For Respondents : Mr.K.Venkatesh,Government Advocate

O R D E R

Mr.K.Venkatesh, learned Government Advocate takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal.

2. The petitioner is aggrieved against the order passed by the 2^{nd} respondent imposing certain conditions while granting the interim stay, pending disposal of the appeal. The petitioner filed the appeal before the 2^{nd} respondent challenging the order of assessment passed by the assessing authority in respect of the assessment year 2012-2013. The Petitioner prayed for stay of the assessment order by filing an application before the Appellate Authority. The said application was ordered by the 2^{nd} respondent on a condition that the petitioner should pay a sum of Rs.54,451/-, apart from Rs.8,151/- which is the admitted tax amount, already paid by the petitioner. The Appellate Authority further imposed a condition of furnishing a bank guarantee to the satisfaction of the Assessing Officer for Rs.1,25,205/- towards the balance of tax. Now, the present writ petition is filed challenging the imposition of such condition, which according to the petitioner, is onerous one.

3. It is submitted by the learned counsel for the petitioner that insofar as the first condition is concerned, namely payment of 50 % of the tax amount, the petitioner has already paid and therefore their only grievance is against the

furnishing of the bank guarantee for the balance tax amount. Learned counsel also invited this Court's attention to the order passed in similar matters wherein this Court has directed the respective assessee to furnish personal bond instead of bank guarantee. The said order, made in the petitioner's case in W.P.No.16281 of 2015 dated 10.06.2015, is made available in the typed set of papers.

4. Learned Government Advocate has not disputed the above stated facts.

5. Considering the fact that the petitioner has already deposited 50% of the tax liability as assessed by the Assessing Officer and that he is also willing to furnish personal bond for the remaining tax amount, the order impugned in this writ petition is modified to the effect that the petitioner, instead of furnishing bank guarantee for a sum of Rs.1,25,205/-, is permitted to furnish personal bond for the above said sum before the Assessing Officer. In all other aspects, the impugned order stands. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

16.03.2017

Speaking/Non Speaking
Index : Yes/No
vsi

K.RAVICHANDRABAABU,J.

vsi

To

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