IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.8735 of 2017
and
W.M.P.No.9582 of 2017

Tvl.Abarna Pharmacy
Represented by its Proprietrix
Tmt.R.Malarkodi
No.46/21, Pattamangala Street
Mayiladuthurai 609 001.
Nagapattinam District. ... Petitioner

Vs

1. Commercial Tax Officer (FAC)
   Mayiladuthurai II Assessment Circle,
   Mayiladuthurai 609 002.

2. The Appellate Deputy Commissioner (CT)
   Cuddalore - 607 001. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records on the files of the Second Respondent herein in its S.P. No.3/17 in A.P. No. 92/2017 (VAT) dated 14.03.2017 and quash the same insofar as it relates to furnishing of bank guarantee.

For Petitioner : Mr.S.Sridharan

For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Mr.K.Venkatesh, learned Government Advocate (IT), takes notice for the respondents and by consent of the parties, the writ petition itself is taken up for final disposal at the admission stage

2. The petitioner is aggrieved against the order of the Sales Tax Appellate Tribunal wherein and whereby the petitioner is directed to furnish sufficient bank guarantee covering the entire penalty amount, while granting stay of the assessment

order. It is seen that the petitioner has filed an appeal before the Tribunal challenging the order of the First Appellate Authority with regard to the disputed turn over, tax and penalty. It is sated by the learned counsel appearing for the petitioner that the petitioner has paid the entire tax liability and only the penalty amount has not been paid, for which, the petitioner has sought for interim stay and however, the Tribunal has directed the petitioner to furnish sufficient bank guarantee covering the entire penalty.

3. The learned counsel appearing for the petitioner submitted that the petitioner will furnish personal bond instead of furnishing sufficient bank guarantee as directed by the Tribunal, in view of the fact that the petitioner has already paid the tax liability.

4. Learned Government Advocate appearing for the respondents is not disputing the above said fact with regard to the payment of taxes.

5. Learned counsel for the petitioner further invited this Court's attention to the earlier order passed in similar matters, one in W.P.No.7196/2017 dated 24.03.2017 wherein this Court has modified the condition to the one of furnishing personal bond instead of furnishing bank guarantee, as directed by the authority therein.

6.Considering the above facts and circumstances and considering the fact that the petitioner has already paid the tax liability and sought for the stay of the penalty amount alone, I am of the view that in the interest of justice, the petitioner may be directed to furnish personal bond instead of bank guarantee as directed by Tribunal. Accordingly, the impugned order passed by the Tribunal is modified to the effect that the petitioner shall furnish personal bond for the amount referred to in the impugned order instead of furnishing bank guarantee, as directed by the Tribunal. In all other respects, the order passed by the Tribunal stands. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mk

To

1. The Commercial Tax Officer (FAC)
   Mayiladuthurai II Assessment Circle,
   Mayiladuthurai 609 002.

2. The Appellate Deputy Commissioner (CT)
   Cuddalore - 607 001.

+1cc to Mr.S.Sridharan, Advocate, S.R.No.22037

W.P.No.8735 of 2017

vsn(co)
rmp(13/04/17)