IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.04.2017

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.7896 & 7897 of 2017

and

WMP.Nos.8632 & 8633 of 2017

M/s.Manali Petro Chemicals,
Rep. By its Deputy General Manager,
88, Mount Road,
Guindy, Chennai 600 032. ... Petitioner in both Wps.

vs.

1.The Appellate Deputy
Commissioner (CT) (East),
Chennai 600 006.

2.The Assistant Commissioner (CT),
Alandur Assessment Circle,
Chennai 600 016. ... Respondents in both Wps.

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in S.P.No.15/2017 in A.P.V.No.15/2017 and S.P.No.16/2017 in A.P.V.No.152/2016 respectively, quash the order dated 10.03.2017 and further direct the second respondent to accept personal bond by way of security for the payment of penalty.

For Petitioner : Mr.B.Raveendran
For Respondents : Mr.K.Venkatesh
Government Advocate

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C O M M O N   O R D E R

Mr.K.Venkatesh, learned Government Advocate takes notice for the respondents in both the matters and by consent of parties, the main writ petitions are taken up for final disposal.

2. In both these writ petitions, the petitioner is aggrieved against the order passed by the appellate authority in imposing the condition to file bank guarantee in respect of penalty amount in WP.No.7896/2017 for the assessment year 2007-2008 and in respect of balance of tax and penalty for the assessment year 2008-2009.

3. Heard both sides.

4. The petitioner in both the writ petitions is one and the same. They challenged the order of the assessing authority before the first respondent / appellate authority imposing penalty of Rs.6,05,517/- in respect of assessment year 2007-2008. They also filed another appeal challenging the order of the assessing authority imposing tax and penalty in respect of the assessment year 2008-2009 to the tune of Rs.7,17,383/- and Rs.3,58,961/- respectively.

5. In both the appeals, the petitioner sought for an interim stay of the order of assessment. The appellate authority while granting stay for a period of six months or till the disposal of the appeal which ever is earlier, imposed the condition on the petitioner to furnish bank guarantee for the penalty in respect of the appeal arising out of the assessment year 2007-2008 and 25% of tax liability with bank guarantee for the balance tax and penalty in respect of the order passed for the assessment year 2008-2009.

6. It is submitted by the learned counsel for the petitioner that the petitioner has already paid 25% tax liability to the tune of Rs.1,79,346/- in respect of the assessment year 2008-2009 at the time of filing the appeal. Therefore, the only grievance of the petitioner before this court is against the condition imposed on them to furnish bank guarantee in respect of penalty and balance tax liability.

7. Learned counsel appearing for the petitioner submitted that under such circumstances, this court has modified the order and permitted the respective petitioners therein to furnish a personal bond instead of bank guarantee. He also relied on a recent order passed by this court in WP.Nos.7196 & 7197/2017 dated 24.03.2017.

8. Learned Government Advocate appearing for the respondents is not disputing the fact that the petitioner has already paid the 25% of the tax at the time of filing the appeal in respect of the assessment year 2008-2009.

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9. Considering the above stated facts and circumstances and considering the very fact that the petitioner has paid 25% tax liability in respect of assessment year 2008-2009 and on further fact that another appeal in respect of assessment year 2007-2008 was filed only challenging the imposition of penalty, this court is of the view that the petitioner can be permitted to furnish personal bond instead of bank guarantee as directed by the appellate authority. Accordingly, the order passed by the appellate authority is modified only to the following extent:

a) The petitioner shall furnish a personal bond to the value referred to in the impugned order instead of the bank guarantee as directed by the appellate authority.

b) In all other respects, the impugned order stands. Such personal bond shall be furnished by the petitioner within a period of two weeks from the date of receipt of a copy of this order.

Writ Petitions are disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gv
To

1.The Appellate Deputy
Commissioner (CT) (East),
Chennai 600 006.

2.The Assistant Commissioner (CT),
Alandur Assessment Circle,
Chennai 600 016.

+1cc to Mr.B. Raveendran, Advocate, S.R.No.20082
+1cc to the Government Pleader, S.R.No.20112

rr(CO)
md(21/04/2017)

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