IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2017

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.No.9932 of 2017
and
W.M.P.No.10924 of 2017

M/s Bhansali Chemicals (Madras) Ltd.,
rep. by its Director
No.7, Muthu Mariamman Nagar,
Aminjikarai, Chennai 600 029 ... Petitioner

Vs.

1. The Commercial Tax Officer,
Arumbakkam Assessment Circle
2nd Floor, F-50, First Avenue
Anna Nagar (East), Chennai - 600 102.

2. The Appellate Deputy Commissioner (CT)
Chennai (Central), CT New Building Annexe
III Floor, Chennai 600 006. ... Respondents

This writ petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records on the files of the second respondent in S.P. No.6/17 in A.P.VAT.260/16 dated 14.02.2017 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 of bank guarantee till the disposal of the appeal in A.P.VAT.260/16.

For Petitioner : Mr. Prithvi Chopda
For Respondents : Mr.K.Venkatesh,
Government Advocate

O R D E R

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

2. This writ petition is filed challenging the order passed by the 2nd respondent only insofar as the condition imposed therein for furnishing the Bank Guarantee for the balance of tax liability of Rs.1,41,795/- in respect of the assessment year

2012-13.

3. The petitioner filed appeal before the appellate authority challenging the order of assessment in respect of assessment year 2012-13. The petitioner also filed interim application seeking for stay of recovery. In that application, the Appellate Authority had passed an order on 14.02.2017 granting stay for a period of six months or till the disposal of the appeal, whichever is earlier, subject to the condition that the petitioner shall pay a further 25% of the disputed tax of Rs.70,905/- and to file a Bank guarantee for the balance tax amount as stated supra. It is stated that the first condition, namely payment of 25% of tax, has been complied with. The said fact is not disputed by the learned Government Advocate. The petitioner has also filed proof of such payment before this Court. Therefore, the only grievance of the petitioner is against the direction issued to furnish Bank guarantee for the balance amount. This Court has considered similar matters and permitted the petitioners therein to furnish personal bond instead of bank guarantee as directed by the Appellate Authority. Therefore, the petitioner is also entitled to get similar relief.

4. Considering the above stated facts and circumstances, the writ petition is allowed in part and the impugned order is modified only to the extent that the petitioner shall furnish personal bond for the balance tax amount of Rs.1,41,795/-, instead of furnishing bank guarantee as directed by the First Appellate Authority. In all other aspects, the impugned order stands. The petitioner shall furnish such personal bond within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi/mm

To
1. The Commercial Tax Officer,
Arumbakkam Assessment Circle
2nd Floor, F-50, First Avenue
Anna Nagar (East), Chennai – 600 102.

2. The Appellate Deputy Commissioner (CT)
Chennai (Central), CT New Building Annexe
III Floor, Chennai 600 006.

+1cc to Mr.T. Pramod Kumar Chopda, Advocate, S.R.No.24279
+1cc to the Government Pleader, S.R.No.24385

sr(CO)
md(2/05/2017)

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