

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2017

CORAM

THE HONOURABLE Mr. JUSTICE K. RAVICHANDRABAABU

W.P.Nos. 8933 and 8934 of 2017
and
W.M.P.Nos. 9849 and 9850 of 2017

Mr. Migatronic India Private Limited,
Rep. by its Head - Finance & Commercial
and Authorized Signatory,
No.22 & 39/20H, Sowri Street,
Alandur, Chennai - 600 016.

...Petitioner in both W.Ps

Versus

1. The Appellate Deputy Commissioner (CT) East,
3rd Floor, C.T.Building Annexe,
No.1, Greams Road,
Chennai - 600 006.

...1st Respondent in both W.Ps

2. The Commercial Tax Officer,
Alandur Assessment Circle,
Chennai - 600 016.

...2nd Respondent in both W.Ps

Prayer in W.P.No. 8933 of 2017:

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus to call for the records of first respondent in S.P.No. 8/2017 in APC.6/2017 and quash the impugned order dated 20.03.2017 and further direct the first respondent to grant an absolute stay of collection of the balance of disputed tax in respect of the assessment year CST 2013-14 without imposing the condition of filing bank guarantee pending disposal of the appeal in APC.6/2017 on his files .

Prayer in W.P.No. 8934 of 2017:

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus to call for the records of first respondent in S.P.No. 25/2017 in APC.10/2017 and quash the impugned order dated 21.03.2017 and further direct the first

respondent to grant an absolute stay of collection of the balance of disputed tax in respect of the assessment year CST 2014-15 without imposing the condition of filing bank guarantee pending disposal of the appeal in APC.10/2017 on his files .

For Petitioner : Mr. P. Rajkumar

For Respondents : Mr.K. Venkatesh,
Government Advocate.

COMMON ORDER

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

2. These writ petitions are filed challenging the order passed by the 1st respondent only insofar as the condition imposed therein for furnishing the Bank Guarantee for the balance of tax liability of Rs.9,32,597/- in respect of the assessment year 2013-14 and Rs.12,66,213/- in respect of the assessment year 2014-15.

3. The petitioner filed appeal before the appellate authority challenging the order of assessment in respect of assessment years 2013-14 and 2014-15. They also filed interim application seeking for stay of recovery. In those applications, the Appellate Authority had passed an order on 20.03.2017 and 21.03.2017 respectively 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 further amount of Rs.4,89,591/- and Rs.6,33,194/- respectively, being another 25% of the disputed tax and to file a Bank guarantee for the balance tax amount as stated supra. It is stated that the first condition, namely payment of another 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 respective 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, both the writ petitions are allowed in part and the impugned orders are modified only to the extent that the petitioner shall furnish personal bond for the balance tax amount of Rs.9,32,597/- and Rs.12,66,213/-, instead of furnishing bank guarantee as directed by the First Appellate Authority. In all

other aspects, the impugned orders stand. 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 petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vsi

To

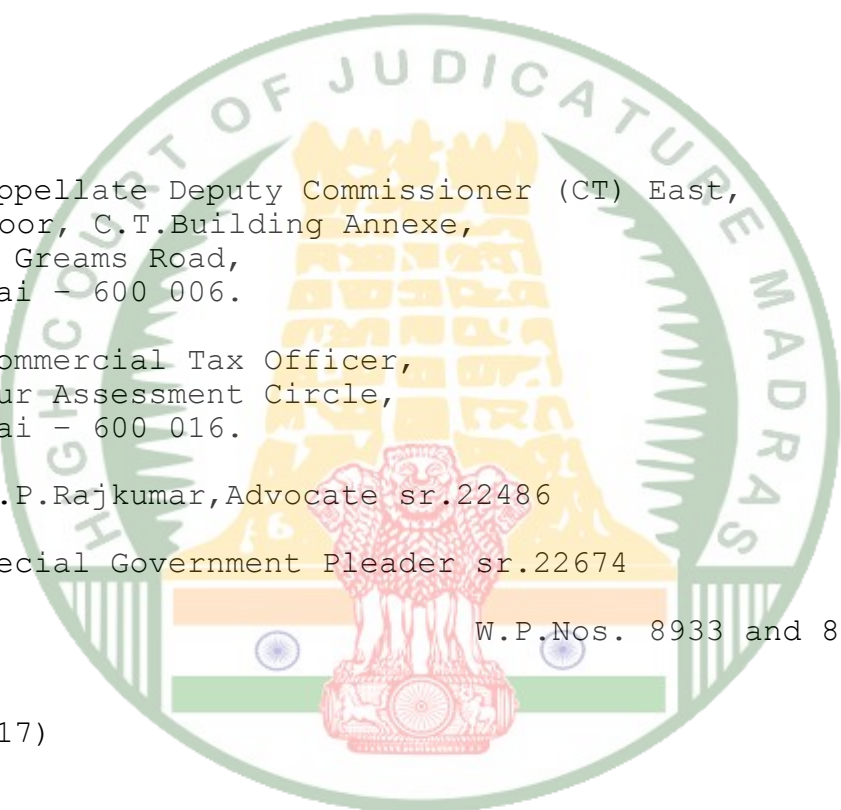
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2. The Commercial Tax Officer,
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Chennai - 600 016.

+1cc to Mr.P.Rajkumar,Advocate sr.22486

+1cc to Special Government Pleader sr.22674

W.P.Nos. 8933 and 8934 of 2017

nm(co)
ss(17/4/2017)

The seal of the High Court of Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red elephant standing in front of it. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed around the perimeter. Below the gopuram, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script. The entire seal is overlaid with a large, semi-transparent "WEB COPY" watermark.

सत्यमेव जयते

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