

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2017

CORAM

THE Hon'ble Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.4958 of 2017

and

WMP Nos.5182 & 5183 of 2017

TVL.MKM PAPER STORE

REP. BY ITS PROPRIETOR NO.200, MAIN ROAD,
NEYVELI - 607 802

... PETITIONER

VS

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

2.The Deputy Commercial tax Officer, (Additional)
Virudhachalam.

... RESPONDENTS

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records of the 1st respondent in S.P.NO.85/2016 in A.P.189/2015-VAT dated 21.12.2016 and quash the same in so far as the directions to file security in the form of bank guarantee or immovable property and direct the 2nd respondent to accept Personal Bond in lieu of bank guarantee for the balance of 50% of tax due and entire penalty of Rs.3,55,556/- [Tax of Rs.88,891/- and penalty of Rs. 266,675 /].

For Petitioner : Mr.A.Ravichandran

For Respondent : Mr.A.Kanmani Annamalai
AGP (Taxes)

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O R D E R

This writ petition is filed for issuance of writ of certiorarified mandamus calling for the records of the 1st respondent in S.P.NO.85/2016 in A.P.189/2015-VAT dated 21.12.2016 and quash the same in so far as the directions to file security in the form of bank guarantee or immovable property and direct the 2nd respondent to accept Personal Bond in lieu of bank guarantee for the balance of 50% of tax due and

entire penalty of Rs.3,55,556/- [Tax of Rs.88,891/- and penalty of Rs. 266,675 /].

2. The case of the petitioner is that aggrieved over the assessment order passed by the 2nd respondent, the petitioner preferred an appeal before the 1st respondent after paying 25% of the disputed tax of Rs.44,446/-. When the petitioner moved a stay application in S.P.No.85/2016, the 1st respondent granted stay on condition that the petitioner shall pay another 25% of the tax and to furnish Bank Guarantee for the remaining amount, on or before 21.06.2017.

3. The learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent would submit that in similar circumstances, this court in WP Nos.12936 & 12937 of 2016 dated 06.04.2016, has permitted the petitioner to give personal bond in lieu of the Bank Guarantee.

4. Considering the submissions made by the learned counsel for the petitioner, the impugned order passed by the 1st respondent is modified permitting the petitioner to execute a personal bond for a sum of Rs.3,55,566/-, in favour of the concerned Assessing Authority, within a period of two weeks from the date of receipt of a copy of this order instead of Bank Guarantee. In other aspects, the order passed by the 1st respondent on 21.12.2016 shall remain unaltered.

5. With theses observations, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

sd/
Assistant Registrar(CCC)

/true copy/

Sub Assistant Registrar

rgr

To

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

2.The Deputy Commercial tax Officer, (Additional)
Virudhachalam.

+lcc to the Special Government Pleader SR.No.13084

+lcc to Mr.A.Ravichandran, Advocate SR.No.13612

W.P.No.4958 of 2017

RSK(CO)

GN(08/03/2017)