IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.05.2017

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

AND

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

WRIT APPEAL No.582 of 2017

and CMP.No. 8198 of 2017

M/s. Manoharan Automobiles
Rep.by its Proprietor - S.Manoharan
No.132/M.B.T.Road,
Muthukadai,
Ranipet, Vellore District ..Appellant/petitioner

vs

1. Assistant Commissioner (CT)
   Ranipet
   Vellore District

2. The Appellate Deputy Commissioner (CT)
   Commercial Taxes Building,
   Vellore, Vellore District ..Respondents/Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 02.03.2017 passed in W.P.No.5215 of 2017.

Prayer in Wp.No.5215 & 5216/17:

writ petitions filed under Article 226 of the constitution of india praying to issue a writ of certiorari calling for the records on the file of the second respondent made in S.P. Nos. 243/16 in APV.726/16 and 245/16 in APV.568/15 respectively dated 02.02.17 and quash the same insofar as it directs the petitioner to furnish Bank Guarantee/security for the balance of disputed penalty due and disputed tax and penalty due respectively for the assessment year 2012-13 (WP No.5215/2017) and 2014-15 (WP.No.5216/2017) respectively under the TNVAT Act, 2016.

For appellant :: Mrs.R.Hemalatha

For respondent :: Mr.A.Kanmani Annamalai
Additional Government Pleader(T)

JUDGMENT

(Judgment of the Court was made by R. MAHADEVAN,J.)

Heard the learned counsel appearing for the appellant and the learned Additional Government Pleader appearing for the respondents.

2. The appellant herein had preferred writ of Certioriari in WP.No.5215 of 2017 to quash the order dated 02.2.2017 passed by the second respondent herein, in and by which the appellant was directed to furnish Bank Guarantee or Security for the disputed penalty due for the assessment year 2012-2013 and the same was dismissed by the learned Single Judge vide order dated 02.3.2017.

3. Being dissatisfied with the said order, the appellant is before this Court by way of the instant writ appeal.

4. We have perused the records.

5. It appears that the appellant had filed appeal before the 2nd respondent challenging the Assessment order dated 09.09.2016 passed by the 1st respondent and the same was taken on file by the 2nd respondent along with stay petition filed by the appellant in SP.No.243/2016 in APV.No.726/16. Since the appellant has already paid the entire tax dues, the 2nd respondent, while granting interim stay, directed the appellant to furnish bank guarantee or security deposit for the disputed penalty.

6. The appellant herein had assailed the said condition by way of the aforesaid writ petition expressing their inability to

comply with the said order. The learned Single Judge dismissed the said writ petition rejecting the appellant's request to execute personal bond instead of Bank guarantee. Hence the present writ appeal.

7. Admittedly, the appellant herein had paid the entire disputed tax. The only grievance of the appellant is that instead of furnishing bank guarantee for the disputed penalty, they may be permitted to execute personal Bond.

8. In the light of the submission made by the learned counsel for the appellant and taking into consideration the fact that the entire disputed amount has been paid, we are inclined to permit the appellant to execute personal bond in lieu of furnishing bank guarantee in respect of the disputed penalty.

9. Accordingly, the writ appeal is disposed of with a direction to the appellant to execute personal bond for the disputed penalty in lieu of furnishing bank guarantee, within a period of two weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

ga

To
1. Assistant Commissioner (CT)
Ranipet
Vellore District

2. The Appellate Deputy Commissioner (CT)
Commercial Taxes Building,
Vellore, Vellore District

+1cc to Special Government pleader(Taxes), Sr.No.37665
+1cc to M/s.R.Hemelatha, Advocate Sr.No.37628

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SKV(CO)
NR(26/05/2017)