

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.583 of 2017
and CMP.No. 8199 of 2017 & 8200 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.5216 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

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 Certiorari in WP.No.5216 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 balance of disputed tax and penalty due for the assessment year 2014 -2015 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 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 29.07.2016 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.245/16 in APV.No.568 of 2016. Since the appellant has paid 25% of the disputed tax at the time of filing the appeal, the 2nd respondent, while granting interim stay, directed the appellant to pay another 25% of the disputed tax on or before 03.3.2017 and for the remaining tax and penalty, the appellant was directed to furnish bank guarantee or property security.

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 condition imposed by the 2nd respondent relating to tax and penalty had been complied with by the appellant to the tune of 50% and for the remaining amount alone, the appellant seeks indulgence of this Court, for which the learned Additional Government Pleader has no objection.

8. In the light of the above, the order of the learned Single Judge dated 02.3.2017 is set aside and the appellant is directed to execute personal bond in lieu of furnishing bank guarantee in respect of the remaining tax and penalty within a period of two weeks from the date of receipt of a copy of this judgment.

9. The writ appeal is disposed of to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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.37666
+1cc to M/s.R.Hemelatha, Advocate Sr.No.37628

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

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