IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.31565 OF 2017 & WMP.NO.34687 OF 2017

M/s.Migatronic India Pvt. Ltd., rep.
by its Head - Finance & Commercial ...Petitioner

Vs

1.The Appellate Deputy Commissioner
3rd Floor, C7, Building Annexe
(ST) East, (FAC), No.1, Greams Road,
Chennai-6.

2.The Commercial Tax Officer, Alandur
Assessment Circle, Chennai-16. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in SP.No.96/2017 in APC.No.37/2017, quash the impugned order dated 07.11.2017 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 2015-16 without imposing any further condition of furnishing of security in the form of immovable property or bank guarantee pending disposal of the appeal on his files.

For Petitioner : Mr.C.Sivasubramanian
For Respondents : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956 on the file of the second respondent. The petitioner filed an appeal before the first respondent against the order of assessment passed by the second respondent. In this writ petition, the petitioner has challenged

the order passed by the first respondent while granting an order of stay. By the impugned order, the first respondent directed the petitioner to pay another 25% of the disputed tax and to furnish bank guarantee for the balance of tax within a time frame. It is stated that the petitioner paid another 25% of the disputed tax on 27.11.2017 as per the order dated 07.11.2017. The petitioner is aggrieved by the condition of furnishing bank guarantee for the balance of 50% of the disputed tax.

3. The learned Additional Government Pleader submits that the petitioner may be permitted to execute personal bond instead of bank guarantee as directed by the first respondent.

4. Having regard to the submission made by the learned counsel on either side, the writ petition is disposed of with a direction to the petitioner to execute a personal bond for the balance of 50% of the disputed tax, in lieu of bank guarantee, within a period of two weeks from the date of receipt of a copy of this order. In all other aspects, the impugned order passed by the first respondent will remain unaltered. No costs. Consequently, the above WMP is closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

1.The Appellate Deputy Commissioner (ST) East, (FAC),
3rd Floor, C7, Building Annexe No.1, Greams Road,
Chennai-6.

2.The Commercial Tax Officer, Alandur Assessment Circle,
Chennai-16.

+1 CC to Spl. Govt. Pleader sr 87502.
+1 CC to Mr.P. Rajkumar, Advocate sr 86234.

WP.No.31565 of 2017&
WMP.No.34687 of 2017

PVS(CO)
SP(26/12/2017)