

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.3753 of 2017

and WMP No.3804 of 2017

M/s.Ranjit Impex,
rep. by its Proprietor,
No.10, Shop No.6, Veerappan Street,
Chennai-600 079.

.. Petitioner

vs.

1. The Appellate Deputy Commissioner (CT),
North Division, Greams Road,
Chennai-6.

2. The Commercial Tax Officer,
Peddunaickenpet (South)
Assessment Circle,
Chennai.

.. Respondents

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, or any other appropriate writ, or directions or orders to call for the records of the first respondent in SP.No.01/2017 in APV No.46/2013, dated 12.01.2017, and quash the same, and further direct the first respondent to grant an absolute stay for balance of tax and penalty amount without insisting upon furnishing of security in the form of Bank Guarantee till pending disposal of the appeal on the file of the first respondent and pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

* * *

For Petitioner : Ms.C.Rekha Kumari

For Respondents : Mr.K.Venkatesh,
Government Advocate

ORDER

1. Issue notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents.

1.1. With the consent of the learned counsels for the parties, the writ petition is taken up for hearing and final disposal.

2. The petitioner is aggrieved by the order dated 12.01.2017, whereby, conditions of stay have been imposed, pending disposal of the appeal, which has been lodged with the first respondent.

2.1. A perusal of the order dated 12.01.2017, would show that the disputed tax has been quantified at Rs.3,02,561/-, while penalty in the sum of Rs.1,36,061/- is sought to be imposed on the petitioner.

2.2. The record shows that the petitioner has paid the following sums at various stages :

- i) Paid at the time of Assessment : Rs.40,638/-
- ii) Paid at the time of Appeal : Rs.1,00,000/-

2.3. Further payment of Rs.75,640/- was made, evidently, by the petitioner in the form of Demand Draft under the cover of letter dated 07.02.2017.

3. The petitioner is aggrieved by the fact that he is now being called upon by the first respondent to pay the balance disputed tax and penalty in the sum of Rs.2,22,344/-, in the form of Bank Guarantee.

4. Learned counsel for the petitioner says that the condition imposed is onerous. Furthermore, learned counsel for the petitioner relies upon the order dated 22.12.2016 passed by this Court in W.P.No.44111 of 2016, titled : M/s.Mangalam Foundation V. The Appellate Deputy Commissioner (CT), to seek modification of the impugned order.

5. Mr.K.Venkatesh, learned Government Advocate, who appears for the respondents, says that the impugned order could be modified as indicated by this Court in the order dated 22.12.2016, passed in W.P.No.44111 of 2016, titled : M/s.Mangalam Foundation V. The Appellate Deputy Commissioner (CT).

6. I have heard the learned counsel for the parties.

7. This Court in M/s.Mangalam Foundation's case and another such like case (the order dated 17.06.2013, passed in W.P.No.8641 of 2013, titled : Vijayalakshmi Corporation Vs. The Appellate Deputy Commissioner (CT)-II and another) has given an option to the assesseees' to furnish a personal bond, where 50%

of the disputed tax has been paid.

7.1. Consistent with this approach, the impugned order is modified to the extent that instead of furnishing a Bank Guarantee, the petitioner would place on record a personal bond for the balance amount of disputed tax and penalty, within two (2) weeks from the date of receipt of a copy of the order. Upon such personal bond being furnished, there shall be a stay qua the Order-in-Original dated 11.02.2013, pending consideration of the appeal lodged with the first respondent.

8. The writ petition is disposed of in terms of the aforesaid directions. Resultantly, the pending application stand closed. No costs.

-s/d-
Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

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To

1.The Appellate Deputy Commissioner(CT)
North Division, Greams Road, Chennai-6

2.The Commercial Tax Officer
Peddunaickenpet(South)Assessment Circle,
Chennai

+1 cc to Special Government Pleader(T) sr 9950

+1 cc to M/s.C.Rekha Kumari Advocate sr 9874

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W.P.No.3753 of 2017

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