IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.9.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.24945 and 24946 of 2017

and W.M.P.Nos.26319 and 26320 of 2017

M/s.Frontline Engineering Services, rep. by its Partner ...Petitioner in both WPs

Vs

1.The Appellate Deputy Commissioner (CT) North, 3rd Floor, C.T.Building Annexe, No.1, Greams Road, Chennai-6.

2.The Commercial Tax Officer, Esplanade Assessment Circle, Chennai-1. ...Respondents in both WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus

(i) to call for the records of first respondent in S.P.No.41/2017 in APV.51/2017, quash the impugned order dated 31.8.2017 and further direct the first respondent to grant an absolute stay of collection of the balance of disputed tax and penalty in respect of the assessment year TIN 33450021184/2013-14 without imposing the condition of payment of any further sum and filing bank guarantee pending disposal of the appeal in APV.51/2017 on her files; and

(ii) to call for the records of first respondent in S.P.No.42/2017 in APV.52/2017, quash the impugned order dated 31.8.2017 and further direct the first respondent to grant an absolute stay of collection of the balance of disputed tax and penalty in respect of the assessment year TIN 33450021184/ 2014-15 without imposing the condition of payment of any further sum and filing bank guarantee pending disposal of the appeal in APV.52/2017 on her files, respectively.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.K.Venkatesh, GA

C O M M O N O R D E R

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice for the respondents. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 on the file of the second respondent. The petitioner filed two appeals before the first respondent against the orders of assessment passed by the second respondent. At the time of filing the appeals, as a mandatory condition of pre-deposit, the petitioner paid 25% of the disputed tax for each of the assessment years. In these writ petitions, the petitioner has challenged the orders passed by the first respondent while granting an order of stay. By the impugned orders, the first respondent directed the petitioner to pay another 25% of the disputed tax for each assessment year and to furnish bank guarantee for the balance of tax and entire penalty within a time frame.

3. It is submitted by the learned counsel for the petitioner that for the assessment year 2014-15, the petitioner is willing to pay another 25% of the disputed tax i.e Rs.11,412/-. This is recorded.

4. The learned Government Advocate submits that for the remaining amount towards disputed tax and penalty in respect of both the assessment years, the petitioner may be permitted to execute personal bond instead of furnishing bank guarantee as directed by the first respondent.

5. Having regard to the submissions made by the learned counsel on either side, the writ petitions are disposed of with a direction to the petitioner to pay another 25% of disputed tax i.e. Rs.11,412/- (Rupees eleven thousand four hundred and twelve only) for the assessment year 2014-15 and to execute a personal bond for the balance of disputed tax and entire penalty, in both the cases, 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 orders passed by the first respondent will remain unaltered. No costs. Consequently, the above WMPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

RS

To

1.The Appellate Deputy Commissioner
(CT) North, 3rd Floor, C.T.Building
Annexe, No.1, Greams Road, Chennai-6.

2.The Commercial Tax Officer, Esplanade
Assessment Circle, Chennai-1.

+1 CC to Mr.P.Rajkumar, Advocate Sr.No.68099

WP.Nos.24945 & 24946 of 2017&
WMP.Nos.26319 & 26320 of 2017

BR(CO)
KP(11.10.2017)