

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.15859 to 15862 of 2017

and

W.M.P.Nos.17171 to 17174 of 2017

M/s.Laxmi Jewellery

Represented by its Proprietor Mr.Ashok Kumar Jain

No.65, N.S.C. Bose Road,

Sowcarpet, Chennai-600 079.

... Petitioner

(in WP Nos.15859 to 15862 of 2017)

Vs.

1. The Appellate Deputy Commissioner (CT) (North

C.T Building, Annexe 3rd Floor,

Greens Road, Chennai-60 0006.

2. The Assistant Commissioner (CT)

Moore Market Assessment Circle

No.48/39, I Floor, Wavoo Mansion, Rajaji Salai,

Chennai-600 001.

... Respondents

(in WP Nos.15859 to 15862 of 2017)

Prayer:

Writ Petition Nos.15859 to 15862 of 2017 are filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the Order in SP.No.18/2017 in APV/21/2017, SP.No.19/2017 in APV/22/2017, SP.No.20/2017 in APV/23/2017 and SP.No.21/2017 in APV/24/2017 respectively dated 15.05.2017 passed by the 1st respondent, quash the same as arbitrary and illegal and to direct the 1st respondent to hear and dispose off Appeal Nos.APV/21 of 2017, APV/22 of 2017, APV/23 of 2017 and APV/24 of 2017 respectively without insisting on any deposit and Bank Guarantee.

For Petitioner : Mr. Joseph Prabakar
For Respondents : Mr. S. Kanmani Annamalai
Additional Government Pleader (Tax)

COMMON ORDER

Mr. S. Kanmani Annamalai, learned Additional Government Pleader (Tax), takes notice on behalf of the respondents. By consent of the parties, these main writ petitions themselves are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the orders passed by the second respondent only insofar as the condition imposed therein for furnishing the Bank Guarantee for the balance of tax liability of Rs.33,55,724/- in respect of the assessment year 2012-2013, Rs.93,15,684/- in respect of the assessment year 2013-2014, Rs.80,61,925/- in respect of the assessment year 2014-2015 and Rs.15,20,125/- in respect of the assessment year 2015-2016.

3. Heard both sides.

4. The petitioner filed appeals before the appellate authority challenging the orders of assessment in respect of assessment years 2012-2013, 2013-2014, 2014-2015 and 2015-2016. They also filed interim applications seeking for stay of recovery. In those applications, the Appellate Authority had passed an order on 15.05.2017 granting stay for a

period of six months or till the disposal of the appeal, whichever is earlier, subject to the condition that the petitioner shall pay further amount of Rs.5,78,512/-, Rs.15,86,454/-, Rs.15,28,539/- and Rs.3,50,836/- respectively, being another 25% of the disputed tax and to file a Bank guarantee for the balance tax amount as stated supra. It is stated that the first condition, namely payment of another 25% of tax, has been complied with. The said fact is not disputed by the learned Government Advocate. The petitioner has also filed proof of such payment before this Court. Therefore, the only grievance of the petitioner is against the direction issued to furnish Bank guarantee for the balance amount. This Court has considered similar matters and permitted the respective petitioners therein to furnish personal bond instead of bank guarantee as directed by the Appellate Authority. Therefore, the petitioner is also entitled to get similar relief.

5. Considering the above stated facts and circumstances, both the writ petitions are allowed in part and the impugned orders are modified only to the extent that the petitioner shall furnish personal bond for the balance tax amount of Rs.33,55,724/-, Rs.93,15,684/-, Rs.80,61,925/- and Rs.15,20,125/-, instead of furnishing bank guarantee as directed by the First Appellate Authority. In all other aspects, the impugned orders stand. The petitioner shall furnish such personal bond within a period of two weeks

K.RAVICHANDRABAABU, J.

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from the date of receipt of a copy of this order. No costs. Consequently,
connected miscellaneous petitions are closed.

23.06.2017

Speaking/Non-speaking order

Index:Yes/No

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Note: Issue order copy on 23.06.2017

To

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