

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.16992 to 16994 of 2017 &
W.M.P.Nos.18448 to 18453 of 2017

Tvl.Nithin Property Developers,
Rep. by its partner, Mr.J.Rajkumar,
Flat No.S-2, II Floor, A Block,
Sripathy Towers, Plot No.1-4,
Syndicate Bank Colony, Pallavaram,
OMR Radial Road, Kovilambakkam,
Chennai - 600 117. Petitioner in all
WPs.

Vs.

- 1.The Appellate Deputy Commissioner (CT),
Chennai (East), C.T.Building (Annexe),
3rd Floor, Greams Road, Chennai - 600 006.
- 2.The Assistant Commissioner (CT),
Madipakkam Assessment Circle,
Chennai 600 100.
- 3.HDFC Bank Limited,
No.5, Sabari Salai, Madipakkam,
Chennai - 600 091. Respondents in
all WPs.

Prayer in W.P.No.16992 of 2017: Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records on the files of the first respondent herein in its S.P.No.58/2017 in A.P.V.73/2017 dated 01.06.2017 and quash the same in so far as it relates to furnishing of bank guarantee for remaining tax and penalty amount of Rs.1,32,790/- and direct the second respondent to lift the bank attachment of A/c 50200003942489.

Prayer in W.P.No.16993 of 2017: Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records on the files of the first respondent herein in its S.P.No.59/2017 in A.P.V.74/2017 dated 01.06.2017 and quash the same in so far as it relates to furnishing of bank guarantee for remaining tax and penalty amount of Rs.10,28,203/- and direct the second

respondent to lift the bank attachment of A/c 50200003942489.
Prayer in W.P.No.16994 of 2017: Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records on the files of the first respondent herein in its S.P.No.60/2017 in A.P.V..75/2017 dated 01.06.2017 and quash the same in so far as it relates to furnishing of bank guarantee for remaining tax and penalty amount of Rs.6,35,554/- and direct the second respondent to lift the bank attachment of A/c 50200003942489.

For Petitioner
in all WPs. : Mr.A.N.R.Jayaprathap

For Respondents : Mr.S.Kanmani Annamalai
in all WPs. Additional Government Pleader.

COMMON ORDER

Heard Mr.A.N.R.Jayaprathap, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice on behalf of the respondents. With the consent on either side, the writ petitions are taken up for disposal.

2.The petitioner has filed these writ petitions challenging the order passed by the Appellate Deputy Commissioner (CT), Chennai (East) in stay petitions filed by the petitioner in the appeal petitions which were filed challenging the assessment orders under the provisions of Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) for the years 2013-2014, 2014-2015 and 2015-2016.

3.The petitioner is not aggrieved by the entirety of the order but only with regard to the direction issued by the Appellate Authority to file a Bank Guarantee to the satisfaction of the Assessing Officer for the balance tax and penalty. The petitioner has remitted 25% of the disputed tax at the time of presentation of the appeal. Pursuant to the impugned order, the petitioner has remitted a further 25% of the disputed tax. Thus, as on date, the petitioner has remitted 50% of the disputed tax for each of the assessment years.

4.Therefore, this Court is of the view that the interest of revenue will be safeguarded if the petitioner is directed to furnish a bond to the satisfaction of the Assessing Officer for the balance tax and penalty and keep the bond alive till the appeals are heard and disposed of by the Appellate Authority.

5.In the light of the above, the writ petitions are allowed and the condition imposed by the Appellate Authority in the impugned order directing to furnish a Bank Guarantee is modified

to that of personal bond which shall be furnished by the petitioner to the satisfaction of the Assessing Officer for the balance tax and penalty for each of the assessment years. The petitioner is granted two weeks time from the date of receipt of a copy of this order to furnish the personal bond. Further, in the light of the above, the order attaching the petitioner's bank account shall stand lifted and abide by the orders to be passed by the Appellate Authority in the appeals. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

abr

To

- 1.The Appellate Deputy Commissioner (CT),
Chennai (East), C.T.Building (Annexe),
3rd Floor, Greams Road, Chennai - 600 006.
- 2.The Assistant Commissioner (CT),
Madipakkam Assessment Circle,
Chennai 600 100.
- 3.HDFC Bank Limited,
No.5, Sabari Salai, Madipakkam,
Chennai - 600 091.

+3cc to Mr.A.N.R.Jayapradap,Advocate sr.47501

+1cc to Special Government Pleader (Taxes)sr.46814

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ss(17/7/2017)

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