



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.2191 of 2017

M/s.Nagappa Corporation,
Represented by its Proprietor L.N.Letchumanan,
No.90, W.B. Road,
Trichy.

... Petitioner

vs.

1)The Appellate Deputy Commissioner(CT),
Trichy.

2)The Assistant Commissioner(CT),
Mailamchandai-I Assessment Circle,
Trichy.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in S.P.No.246/2016 in AP No.295/2016 dated 06.01.2017 on the file of the 1st respondent and quash the same as illegal and direct the 2nd respondent to accept the personal bond to be executed by the petitioner in lieu of security.

For Petitioner : Mr.S.Karunakar
For Respondents : Mr.Rajakarthikeyan
Additional Government Pleader

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records in S.P.No.246/2016 in AP No.295/2016, dated 06.01.2017, on the file of the 1st respondent and quash the same as illegal and direct the 2nd respondent to accept the personal bond to be executed by the petitioner in lieu of security.

2.Mr.Rajakarthikeyan, learned Additional Government Pleader accepts notice for the respondents. With the consent of both sides, the writ petition itself is taken up and decided finally.

3.The petitioner has approached this Court challenging the impugned order of the respondents dated 06.01.2017, for the reason that the second condition imposed at paragraph 9 of the impugned



order requiring the petitioner to file a security bond or bank guarantee for the balance of tax of Rs.15,69,780/- on or before 05.02.2017 or within 30 days from receipt of the impugned order.

4.The case of the petitioner is that under the impugned order, two conditions were imposed. The first condition is to pay a sum of Rs.3,53,054/- which the petitioner had already complied with and the amount has been paid on 27.01.2017 itself. In so far as the second condition of giving bank guarantee for the remaining amount, the only grievance of the petitioner is that instead of giving bank guarantee, he would give a personal security bond. In this regard, the learned counsel for the petitioner would also submit that similar issue was considered by this Court in a recent order dated 14.12.2016 made in W.P(MD)No.23937 and 23938 of 2016 in the matter of M/s.Jayalakshmi Agency, Represented by its Proprietor K.Jayalakshmi, Trichy vs. The Appellate Deputy Commissioner, Trichy and another. In the said case, the learned Judge has passed the following order:-

'6.In view of the earlier order and also considering the facts and circumstances of the cases, this court modifies the conditions imposed by the appellate authority only insofar as to the grant of Bank Guarantee:-

(i)For the penalty amount of Rs.15,317 and Rs.67,100/- respectively, the petitioner firm in both the cases, shall execute a personal bond with the appellate authority within a period of two weeks from the date of receipt of a copy of this order.

(ii)In case, if the petitioner firm fails to furnish the personal bond within the abovesaid time limit, this modification granted by this Court shall stand cancelled without any reference to this Court and the orders of the appellate authority will get automatically restored.

Accordingly, the Writ Petitions are allowed to the extent indicated above. No costs. ''

5.In view of the said order, a similar order can also be passed in this writ petition, as the petitioner herein is also similarly placed and the very same condition has been imposed now by the respondents through the impugned order.

6.Heard the learned Additional Government Pleader appearing for the respondents.

7.In view of the said order already passed by this Court referred to above, and the petitioner also is similarly placed where there is a condition of giving bank guarantee for the remaining amount of tax as per the impugned order as a condition for grant of interim order by the 1st respondent and the petitioner also is ready and willing to give personal security bond for the said amount, this Court is of the view that in this case also, a



similar order can be passed.

8. In the result, the following order is passed in this writ petition.

(i) For the disputed amount of Rs.15,69,780/-, the petitioner shall execute a personal bond with the appellate authority within a period of two weeks from the date of receipt of a copy of this order.

(ii) In case, if the petitioner fails to furnish the personal bond within the abovesaid time limit, this modification granted this Court shall stand cancelled without any reference to this Court and the orders of the appellate authority will get automatically restored.

Accordingly, the Writ Petition is allowed to the extent indicated above. No costs.

Sd/-

Assistant Registrar(C)

/True copy/

Sub Assistant Registrar

To

1) The Appellate Deputy Commissioner(CT),
Trichy.

2) The Assistant Commissioner(CT),
Mailamchandai-I Assessment Circle,
Trichy.

+1cc to Spl. Government Pleader, SR.No:7511
+1cc to M/S.S.Karunakar, Advocate, SR.No:7537

nbi

AE/SV MMS/22.02.2017/3P/5C

W.P. (MD) No.2191 of 2017
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