



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2017

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

WEB COPY

W.P. (MD).Nos.7900 of 2017

Tvl. M. RAFEEL & CO,
Rep. by its partner
M.Pakker Mohsmed, sged about 43 years,
s/o P.Mohamed Mathar,
6, Kaluvetri Mudukku,
Thirunelveli Town-627 006.

...Petitioner

Vs.

1.The Appellate Deputy commissioner (CT),
Commercial Taxes Buildings,
Reserve line Road,
Palayamkottai,
Thirunelveli - 627 002.

2.The Deputy Commercial Tax Officer,
Thirunelveli Town Assessment Circle,
Commercial Taxes Buildings,
Reserve line Road,
Palayamkottai,
Thirunelveli - 627 002.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records on the file of the 1st respondent in S.P.No.12/2017 in A.P.No.v/181/ 2016, dated 30.03.2017, quash the same in so far as the condition to file a Security Bond or Bank guarantee for the balance of entire penalty of Rs.1,89,108/- is concerned and further direct the 1st respondent to grant stay till disposal of the appeal filed by me in A.P.No.v/181/2016.

For Petitioner : Mr.R.Veeramanikandan
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

This Writ petition has been filed by the petitioner to call for records on the file of the 1st respondent in S.P.No.12/2017 in A.P.No.V/181/ 2016, dated 30.03.2017, quash the same in so far as the condition to file a Security Bond or Bank guarantee for the balance of entire penalty of Rs.1,89,108/- is concerned and further direct the 1st respondent to grant stay till disposal of the appeal filed by me in A.P.No.V/181/2016.



2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. In a similar case, this Court in Writ Petition No.17503 of 2015, dated 29.09.2015 has passed the following order:-

"Considering the submission made by either side, following the order passed in the Writ petition referred above, the Writ petition is disposed of, with a direction to the petitioner to execute a personal bond instead of furnishing bank guarantee, as required by the appellate authority as a condition for grant of stay. Such a personal bond shall be executed within period of two weeks from the date of receipt of a copy of this order. On receipt of the personal bond, the appellate authority is directed to dispose of the appeal on merits. On execution of the personal bond, the stay granted by the appellate authority shall continue till the disposal of the appeal."

4. Considering the nature of grievance expressed by the petitioner in this case, this Court is inclined to follow the order passed in Writ Petition No.17503 of 2015, dated 29.09.2015. Hence these writ petitions are also disposed with a direction to the petitioner to execute a Personal Bond instead of furnishing Bank Guarantee or Security Bond, as directed by the first respondent in the impugned order, while granting stay. The petitioner shall execute a Personal Bond within the period of two weeks from the date of receipt of a copy of this order. On receipt of the Personal Bond, the Appellate Authority, namely, the First respondent is directed to dispose of the appeals on merits. Upon execution of the Personal Bond, the stay granted by the Appellate authority shall continue till the disposal of the appeal. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Appellate Deputy commissioner (CT),
Commercial Taxes Buildings,
Resort Road,
Palayamkottai,
Thirunelveli - 627 002.



2.The Deputy Commercial Tax Officer,
Thirunelveli Town Assessment Circle,
Commercial Taxes Buildings,
Reserve line Road,
Palayamkottai,
Thirunelveli - 627 002.

+1cc to M/s.B.Rooban, Advocate, Sr No. 54046
+1cc to Special Government Pleader, Sr NO.54656

ORDER MADE IN
W.P. (MD) .Nos.7900 of 2017
26.04.2017

Sm/TA
MS/BS/SAR-4/10.05.2017/3P.5C