In the High Court of Judicature at Madras

Dated : 03.8.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.20156 to 20158 of 2018 &
WMP.Nos.23626 to 23628 of 2018

M/s.Thirupathy Agency, rep.by
its Legal Heir V.Aravindhan ...Petitioner

Vs

1.The Appellate Deputy Commissioner
(CT) (FAC), Commercial Tax
Building, Trichy.

2.The Commercial Tax Officer, Ariyalur
Assessment Circle, Ariyalur. ...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records respectively in S.P.No.164/2018 in VAT AP No.324/2018, S.P.No.166/2018 in VAT AP No.322/2018 and S.P.No.165/2018 in VAT AP.323/2018, all dated 17.7.2018 on the file of the 1st respondent and quash the same in so far as it relates to the furnishing of security bond or bank guarantee of balance of tax and penalty as illegal and direct the 2nd respondent to accept the personal bond to be executed by the petitioners in lieu of security.

For Petitioner in
All WP'S : Ms.Vinupradha
For Respondents in
All WP'S : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is aggrieved by the condition imposed by the first respondent while granting the interim orders in the appeals filed by the petitioner.

3. As against the orders of assessment passed by the second respondent for the years from 2013-14 to 2015-16 respectively, the petitioner preferred appeals before the first respondent in VAT AP.Nos.322/ 2018 to 324/2018 and prayed for stay by filing S.P.Nos.164/2018 to 166/2018. The first respondent, by orders dated 17.7.2018, granted interim stay subject to the condition that the petitioner should pay another 25% of the disputed tax for each of the assessment years and furnish bank guarantee for the balance tax and entire penalty and that the bank guarantee should be kept valid upto 16.1.2019. The petitioner complied with the first limb of the conditions imposed namely payment of 25% of the disputed tax in respect of all the cases. Aggrieved by the condition to furnish bank guarantee for the balance tax and entire penalty, the petitioner is before this Court.

4. The learned Additional Government Pleader submits that the petitioner may be permitted to execute a personal bond instead of bank guarantee as directed by the first respondent.

5. Having regard to the submission made by the learned counsel on either side, the writ petitions are disposed of with a direction to the petitioner to execute a personal bond for the balance of tax and entire penalty in respect of all 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 connected WMPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To
1.The Appellate Deputy Commissioner (CT) (FAC),
Commercial Tax Building, Trichy.

2.The Commercial Tax Officer,
Ariyalur Assessment Circle, Ariyalur.

+3cc to Mr.S.KARUNAKAR, Advocate, S.R.No. 53526
+1cc to the spl. Government Pleader, S.R.No. 53646

WP.Nos.20156 to 20158 of 2018&
WMP.Nos.23626 to 23628 of 2018

NM(CO)
TR(24/08/2018)