

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2018

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.4141 of 2018 and
W.M.P.No.5086 of 2018

M/s.Don Construction Chemical India Limited,
rep by its Assistant Manager - Accounts,
No.4 & 5, II Block, Chowdury Complex,
Nandanam Extension, 5th Street,
Nandanam, Chennai - 600 035. ... Petitioner

Vs.

1. The Appellate Deputy Commissioner (ST) East (FAC),
3rd Floor, C.T. Building Annexe,
No.1, Greams Road,
Chennai - 600 006.
2. The Assistant Commissioner (CT),
Kotturpuram Assessment Circle,
Chennai - 600 028. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records on the file of the 1st respondent in S.P.No.1 of 2018 in APV No.1/2018 and to quash the impugned order dated 22.01.2018 and further direct the 1st respondent to grant an absolute stay of collection of the balance of disputed tax and penalty in respect of the assessment year TIN 33520862960/2011-12 without imposing any further condition of furnishing of security in the form of immovable property or bank guarantee pending disposal of the appeal on his files.

For Petitioner : Ms.P.Aruna Devi

For Respondents : Mrs.G.Dhanamadhri,
Government Advocate

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records on the file of the 1st respondent in S.P.No.1 of 2018 in APV No.1/2018 and to quash the impugned order dated 22.01.2018 and further

direct the 1st respondent to grant an absolute stay of collection of the balance of disputed tax and penalty in respect of the assessment year TIN 33520862960/2011-12 without imposing any further condition of furnishing of security in the form of immovable property or bank guarantee pending disposal of the appeal on his files.

2.The petitioner has filed the above Writ Petition challenging the order dated 22.01.2018 of the 1st respondent herein directing the petitioner to deposit a further 25% of the disputed tax and to furnish Bank Guarantee for the balance of tax and penalty. According to the petitioner, they have complied with the 1st condition in the impugned order and they are aggrieved by the direction to furnish Bank Guarantee.

3.This Court in similar circumstances in W.P.Nos.224 to 227 of 2016 dated 06.01.2016 had permitted the petitioner therein to execute personal bond for the balance tax amount and penalty for each assessment year in lieu of furnishing Bank Guarantee.

4.Following the said ratio, this Writ Petition is disposed of with a direction to the petitioner to execute Personal Bond for the balance tax amount and penalty in lieu of furnishing Bank Guarantee within a period of two weeks from the date of receipt of a copy of this order. On such executing the personal bond, the order of stay granted by the 1st respondent shall be in force till the disposal of the appeal. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS IX)

True Copy

Sub-Assistant Registrar

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To

1. The Appellate Deputy Commissioner (ST) East (FAC),
3rd Floor, C.T. Building Annexe, No.1, Greams Road,
Chennai - 600 006.

2. The Assistant Commissioner (CT),
Kotturpuram Assessment Circle,
Chennai - 600 028.

+1 CC to Mr.P. Rajkumar, advocate sr 13830.

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SP(27/02/2018)