

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2018

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.3474 of 2018 &

W.M.P.No.4251 of 2018

M/s. Continental Hotels & Resorts
Rep. by its Authorised Signatory
No.1, Royal Enclave, Besant Avenue
Adyar, Chennai - 600 020

.. Petitioner

v.

1. The Assistant Commissioner
Adyar Assessment Circle
Chennai
2. The Appellate Deputy Commissioner (ST)
(East) (FAC) C.T. Buildings Annexe
3rd Floor, Greaves Road
Chennai - 600 006

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in S.P.No.5/2018 in APV.2/2018, quash the impugned proceedings dated 18.01.2018 and further direct the 2nd respondent to grant an absolute stay without insisting upon any condition regarding the filing of security pending disposal of the appeal and further direct the 2nd respondent to dispose of the appeal at an early date.

For Petitioner

: Mr.V.Sundareswaran

For Respondent

: Mr.M.Hariharan

Addl. Govt. Pleader (T)

ORDER

Mr.M.Hariharan, learned Additional Government Pleader (Tax), takes notice for the respondents. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

<https://hcservices.ecourts.gov.in/hcservices/> The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent, to quash the impugned proceedings dated

18.01.2018 and direct the 2nd respondent to grant an absolute stay without insisting upon any condition regarding the filing of security pending disposal of the appeal and further direct the 2nd respondent to dispose of the appeal at an early date.

3. Mr.V.Sundareswaran, learned counsel appearing for the petitioner submitted that by the impugned order dated 18.01.2018, the 2nd respondent had directed the petitioner to pay further amount of Rs.14,67,081/- being another 25% of the disputed tax and file bank guarantee to the satisfaction of the Assessing Officer for the balance of Tax of Rs.29,34,163/- in the prescribed manner in fulfilment of the conditions stipulated in Rule 14(15) read with the proviso to Section 52(4) of the Tamil Nadu Value Added Tax Act, 2006 on or before 19.02.2018. The learned counsel further submitted that the petitioner is willing to furnish a personal bond for a sum of Rs.29,34,163/- instead of bank guarantee as ordered by the 2nd respondent. The learned counsel also submitted that in similar circumstances, this Court, by order dated 10.05.2017 in W.P.Nos.12396 to 12398 of 2017, permitted the petitioner therein to furnish personal bond instead of bank guarantee .

4. Mr.M.Hariharan, learned Additional Government Pleader, appearing for the respondents submitted that the order passed in W.P.Nos.12396 to 12398 of 2017, dated 10.05.2017, can be followed in this writ petition also.

5. Having regard to the submissions made by the learned counsel on either side, following the order passed in W.P.Nos.12396 to 12398 of 2017, the impugned order dated 18.01.2018 is modified to the extent that the petitioner shall furnish a personal bond for a sum of Rs.29,34,163/- instead of bank guarantee within a period of two weeks from the date of receipt of a copy of this order. Upon such personal bond being furnished, there shall be an order of stay of the Assessment Order passed by the 1st respondent pending disposal of the appeal preferred before the 2nd respondent. The 2nd respondent is also directed to dispose of the appeal within a period of twelve weeks from the date of receipt of a copy of this order.

With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The Assistant Commissioner
Adyar Assessment Circle
Chennai

2. The Appellate Deputy Commissioner (ST)
(East) (FAC) C.T. Buildings Annexe
3rd Floor, Greams Road
Chennai - 600 006

+ 1 cc to Mr.V.Sundareswaran, Advocate Sr.No.12124

+ 1 cc to The Special Government Pleader (Tax) Sr.No.12015

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CO(RK)

RRI 05/03/2018



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