IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2018

ORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.7700 of 2018

and

W.M.P.Nos.9606 and 9607 of 2018

M/s. Sri Perumal Gas Service,
rep. by its Proprietrix - T. Chokkammal. ...Petitioner

Vs.

1. The Commercial Tax Officer (FAC)
   Arakkonam, Vellore District,
   Vellore.

2. The Appellate Deputy Commissioner (CT)
   Commercial Taxes Building,
   Vellore, Vellore District. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records from the file of the second respondent, made in S.P.No.2 of 2018 in A.P.No.920 of 2017, dated 22.01.2018, and to quash the same insofar as it directs the petitioner to furnish security for the balance of disputed taxes and penalty due for the assessment year 2014-2015 under the TNVAT Act, 2006.

For Petitioner : M/s. R.Hemalatha

For Respondent : Mrs.G.Dhanamadhri
Government Advocate

O R D E R

Heard M/s. R.Hemalatha, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate, accepting notice on behalf of the respondents. With consent of the learned counsel on either side, the Writ Petition is taken up for disposal.

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2. Challenging the order passed by the second respondent in the Stay Petition No.2 of 2018, the petitioner has filed an Appeal Petition, in A.P.No.920 of 2017. This has been filed before the second respondent as against the order passed by the first respondent, dated 24.08.2017. The second respondent, while granting an order of stay, directed the petitioner to furnish bank guarantee or security deposit for the remaining disputed tax and penalty and the bank guarantee to be kept alive for a period of six months, i.e. upto 22.07.2018. At the time, when the Appeal Petition was entertained, 75% of the disputed tax has already been remitted by the petitioner. Therefore, this Court is of the view that the interest of the Revenue has been sufficiently safeguarded and to safeguard further interest of the Revenue, the petitioner can be directed to file a bond for the remaining tax and penalty.

3. In the result, the Writ Petition is partly allowed and the order passed by the second respondent, dated 22.01.2018 is modified to the effect the petitioner shall execute a personal bond for the balance tax and penalty for the respective assessment year, in lieu of furnishing bank guarantee, within a period of two weeks from the date of receipt of a copy of this order, and keep the bond alive till the disposal of the Appeal Petition No.920 of 2017. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

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To
1. The Commercial Tax Officer (FAC)
Arakkonam, Vellore District, Vellore.

2. The Appellate Deputy Commissioner (CT)
Commercial Taxes Building,
Vellore, Vellore District.

+1 CC to M/s. R.Hemalatha, Advocate Sr.No.24728
+1 CC to Special Government Pleader, High Court, Chennai Sr.No.24951

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KP(13/04/2018)

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