IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 04.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.7790 and 7791 of 2018
&
W.M.P.Nos.9704 & 9705 of 2018

M/s.Square Network Solution Pvt Ltd.,
Represented by its Managing Director,
Mr.B.Ashwin,
No.144, Greams Road,
Chennai - 600 006. .. Petitioner in both W.Ps'

Versus

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

2.The Commercial Tax Officer,
Nungambakkam Assessment Circle,
Chennai. .. Respondents in both W.Ps'

Common Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified mandamus, calling for the records of first respondent in S.P.No.16/2018 in AP-CST No.3/2018 and S.P.No.15 of 2018 in AP-VAT No.21/2018 respectively and quash the impugned order dated 28.02.2018 and further direct the first respondent to grant an absolute stay of collection of the balance of disputed tax in respect of the asst year CST 822189/2015-16 and TIN 33120541722/2015-16 respectively without imposing any further condition of furnishing of security in the form of immovable property or bank guarantee for the balance disputed tax pending disposal of the appeal on his files and pass further order or orders.

For Petitioner : Mr.P.Rajkumar

For Respondents: Ms.G.Dhana Madhri
(in both W.Ps') Government Advocate

COMMON ORDER

Heard Mr.P.Rajkumar, learned counsel appearing for the petitioner and Ms.G.Dhana Madhri, learned Government Advocate appearing for the respondents. With the consent on either side, the writ petitions are taken up for disposal.

2. The petitioner is aggrieved by the orders passed by the appellant authority in stay petition filed by the petitioner in Appeal Petition Nos.3 and 21 of 2018, challenging the assessment order under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment year 2015-2016 and the assessment order under the provisions of the Central Sales Tax Act for the assessment year 2015-2016, dated 27.11.2017 and 28.11.2017 respectively.

3. The petitioner has paid 25% of the disputed tax at the time of filing the appeal and furnished bank guarantee for the remaining amount of 25% of the disputed tax. The Appellate Authority while granting stay of the order passed by the Assessing Officer, has directed the petitioner to file valid security in the form of bank guarantee in respect of the remaining amount.

4. In the considered opinion of this Court, since 50% of the disputed amount has been secured, the interest of revenue has been sufficiently safeguarded. Therefore, the stay order passed by the Appellate Authority requires a slight modification.

5. Accordingly, these writ petitions are allowed and the impugned order passed by the first respondent is modified by directing the petitioner to furnish a personal bond for 50% of the disputed tax and keep the bond alive till the disposal of the appeal petitions pending before the first respondent. If this condition is complied with, the assessment orders dated 27.11.2017 and 28.11.2017 shall remains stayed till the disposal of the appeals. No costs. Consequently, connected miscellaneous petitions shall stand closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsm

To

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

2.The Commercial Tax Officer,
Nungambakkam Assessment Circle,
Chennai.

+ 1 cc to Mr.P. Rajkumar, Advocate Sr.24834
+ 1 cc to Government Pleader Sr.25306

W.P.Nos.7790 and 7791 of 2018

SVI(CO)
EU(19/04/2018)