IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.22427 of 2018

M/s.C.R.Caterers India Pvt. Ltd.,
Rep. by its Managing Director
D.R.Eswara Reddy
No.48/39, Rajaji Salai,
Chennai-600 001. ...Petitioner

Vs

1. The Appellate Deputy Commissioner (CT)
   Chennai (North)
   C.T.Buildings, 3rd Floor,
   Greams Road, Chennai-600 006.

2. The State Tax Officer
   Muthialpet Assessment Circle
   No.199, Thambu Chetty Street,
   Chennai-600 001. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent in his proceedings in S.P.No.20/2018 in APV/No.33/2018 dated 01.08.2018 and quash the same, as illegal insofar as the condition of furnishing of Bank Guarantee for the amount of Rs.6,43,106/- is concerned.

For Petitioner : Mr.S.Ramanathan

For Respondents: Mr.M.Hariharan,
Additional Government Pleader (Tax)

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O R D E R

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

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2. This writ petition is filed challenging the order dated 01.08.2018 issued by the first respondent, calling upon the petitioner to furnish Bank Guarantee towards the balance tax and penalty of Rs.6,43,106/-, while granting stay, during the pendency of an appeal. The petitioner is aggrieved against the condition imposed by the First Appellate Authority, while granting stay.

3. Heard both sides.

4. Mr.S.Ramanathan, learned counsel for the petitioner submitted that the petitioner has already paid over and above the admitted tax liability at the time of preferring an appeal before the first respondent and therefore, during the pendency of the appeal, the petitioner cannot be burdened with furnishing a Bank Guarantee for the balance tax and penalty to the tune of Rs.6,43,106/-. The learned counsel for the petitioner further contended that the petitioner is willing to furnish a personal bond instead of furnishing Bank Guarantee, as directed by the first respondent.

5. This Court has already considered similar request and modified the conditional order thereby permitting the respective petitioners therein to furnish personal bond for the balance amount. One such order made by this Court in WP.No.6909 of 2018 dated 26.03.2018 is enclosed in the typed set of papers.

6. The learned Additional Government Pleader for the respondents is not disputing the above said facts and circumstances.

7. Considering the above stated facts and circumstances and in view of the fact that the petitioner has already paid over and above the admitted tax liability, during the pendency of the appeal, this Court is of the view that the interest of justice would be met, if the order passed by the Appellate Authority, impugned in this writ petition, is modified to the extent as follows:

> (a) The petitioner shall furnish a personal bond for a sum of Rs.6,43,106/- instead of Bank Guarantee as directed by the first respondent in the impugned order.

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(b) Such personal bond shall be furnished by the petitioner within a period of seven days from the date of receipt of a copy of this order.

(c) In all other aspects, the impugned order of stay stands.

Accordingly, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mk
To

1. The Appellate Deputy Commissioner (CT)
Chennai (North)
C.T.Buildings, 3rd Floor,
Greams Road, Chennai-600 006.

2. The State Tax Officer
Muthialpet Assessment Circle
No.199, Thambu Chetty Street,
Chennai-600 001.

+1cc to M/S.S.Ramanathan, Advocate Sr.59945
+1cc to the Special Government Pleader Sr.60778

सत्यमेव जयते

W.P.No.22427 of 2018

srg 12/09/2018

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