

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.22596 & 22597 of 2018

and

WMP.Nos.26444 & 26445 of 2018

M/s.Sri Rajeswari Timbers
Rep. by its Proprietor - C.Gopinath
No.2/52, Chennai High Road,
Gandhi Road,
Thakkolam, Vellore District.
..Petitioner

(in WP.Nos.22596 & 22597 of 2018)

Vs

- 1.The Deputy Commercial Tax Officer
Arakkonam Assessment Circle
Arakkonam,Vellore District.
- 2.The Appellate Deputy Commissioner (CT)
Commercial Taxes Building
Vellore, Vellore District.

...Respondents

(in WP.Nos.22596 & 22597 of 2018)

Writ Petition No.22596 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 2nd respondent in his proceedings made in SP.No.173 of 2018 in AP No.892/2016 dated 28.06.2018 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.

Writ Petition No.22597 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 2nd respondent in his proceedings made in SP.No.174 of 2018 in AP No.760/2016 dated 28.06.2018 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 2015-2016 under the TNVAT Act, 2006.

For Petitioner : Mrs.R.Hemalatha
(in WP.Nos.22596 & 22597 of 2018)

For Respondents: Mrs.G.Dhana Madhri
Government Advocate (Tax)
(in WP.Nos.22596 & 22597 of 2018)

C O M M O N O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondents. By consent of the parties, the main writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the orders dated 28.06.2018 issued by the second respondent, calling upon the petitioner to furnish Bank Guarantee towards the balance tax and penalty of Rs.2,95,555/- in WP.No.22596 of 2018 and Rs.1,13,376/- in WP.No.22597 of 2018, while granting stay, during the pendency of the appeals. The petitioner is aggrieved against the condition imposed by the First Appellate Authority, while granting stay.

3. Heard both sides.

4. Mrs.R.Hemalatha, learned counsel for the petitioner submitted that the petitioner has already paid 50% of the tax liability and therefore, during the pendency of the appeals, the petitioner cannot be burdened with furnishing the Bank Guarantees for the balance tax and penalty to the tune of Rs.2,95,555/- in WP.No.22596 of 2018 and Rs.1,13,376/- in WP.No.22597 of 2018. The learned counsel for the petitioner further contended that the petitioner is willing to furnish the personal bonds instead of furnishing Bank Guarantees, as directed by the second 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.Nos.7790 & 7791 of 2018 dated 04.04.2018 is enclosed in the typed set of papers.

6. The learned Government Advocate (Tax) 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 50% of the tax liability, during the pendency of the appeals, this Court is of the view that interest of justice would be met, if the orders passed by the Appellate Authority, impugned in these writ petitions are modified to the extent as follows:

(a) The petitioner shall furnish the personal bonds for a sum of Rs.2,95,555/- in WP.No.22596 of 2018 and Rs.1,13,376/- in WP.No.22597 of 2018, instead of Bank Guarantees as directed by the second respondent in the impugned orders.

(b) Such personal bonds 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 respects, the order of stay stands.

Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

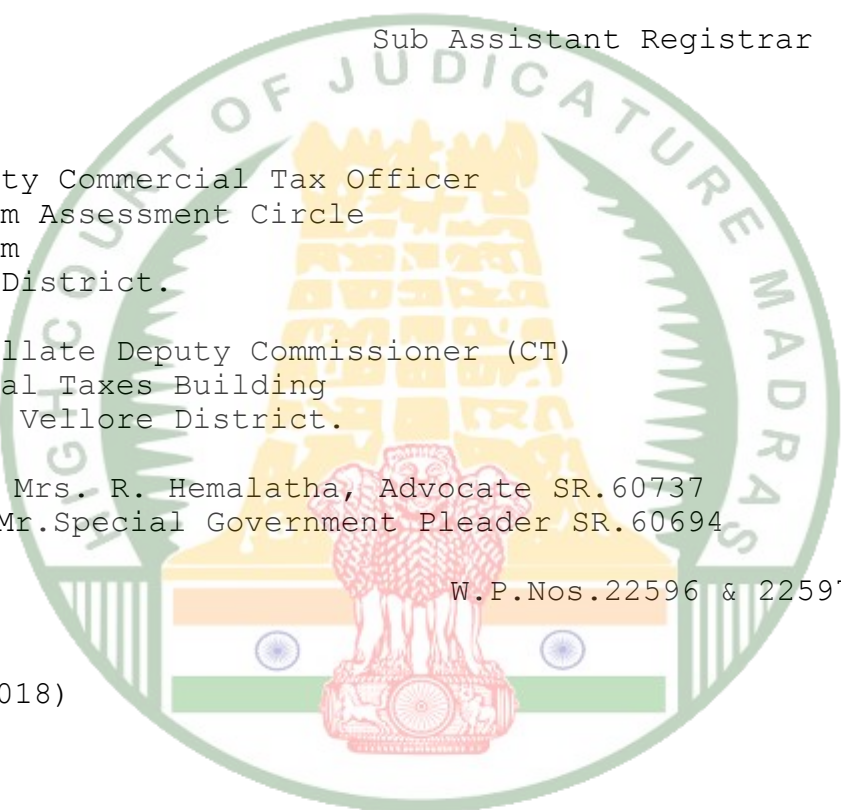
1. The Deputy Commercial Tax Officer
Arakkonam Assessment Circle
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Vellore District.

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

+ 2 ccs to Mrs. R. Hemalatha, Advocate SR.60737
+ 1 cc to Mr. Special Government Pleader SR.60694

W.P.Nos.22596 & 22597 of 2018

pvs (CO)
EU (24/09/2018)



सत्यमेव जयते

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