IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.12787, 12788 & 12818 of 2018

Literoof Housing Limited,
Represented by its Managing Director,
M.Mohammed Ansari
342, Avvai Shanmugham Salai,
Gopalapuram, Chennai-600086 .. Petitioner in all W.Ps'

Versus

1.The Appellate Deputy Commissioner (ST) (EAST) (FAC),
No.1, Greams Road,
Chennai – 600 006.

2.The Commercial Tax Officer,
Rayapettah Assessment Circle,
Taluk Office Building, Greenways Road,
Chennai-600028. .. Respondents in all W.Ps'

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified mandamus, to call for the records of the first respondent in SP Nos.32, 33 and 34/2018 in APV 117, 118 and 119/2018, respectively and modify the order dated 19.04.2018 in so far as the condition of furnishing of bank guarantee for the balance of disputed tax & penalty pending disposal of the appeal.

For Petitioner : Mr.R.Kumar

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

COMMON ORDER

Heard Mr.R.Kumar, 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 appellate authority in stay petition filed by the petitioner in SP Nos.32, 33 and 34/2018 in APV 117, 118 and 119/2018, respectively, challenging the assessment order under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment years 2011-2011, 2012-2013 and 2013-2014 and the assessment orders under the provisions of the Central Sales Tax Act for the assessment years 2011-2011, 2012-2013 and 2013-2014, dated 19.04.2018.

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 guarantees 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 orders passed by the first respondent is modified by directing the petitioner to furnish a personal bond for 50% of the disputed tax within two weeks from the date of receipt of this order 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 19.04.2018 shall remain stayed till the disposal of the appeals. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

ia/sr

To
1.The Appellate Deputy
Commissioner (ST) (EAST) (FAC),
No.1, Greams Road,
Chennai - 600 006.

2.The Commercial Tax Officer,
Rayapettah Assessment Circle,
Taluk Office Building, Greenways Road,
Chennai-600028.

+1 CC to Mr.R. Kumar, Advocate sr 35565.
+1 CC to Spl. Govt. Pleader(T) sr 35538.

SP(11/06/2018)