

In the High Court of Judicature at Madras

Dated : 12.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14051 of 2018 & WMP.No.16605 of 2018

Dhinakaran & Co., rep.by its
Sole Proprietor K.Dhinakaran

...Petitioner

Vs

1.The Assistant Commissioner (CT),
Thudiyalur Circle, Coimbatore.

2.The Appellate Deputy Commissioner
(CT) (Main) (FAC), Coimbatore.

....Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the second respondent herein in his proceedings in S.P.No.01/2018 in VAT.AP.No.101/ 2016 dated 15.5.2018 and quash the same in so far as it directs the petitioner to furnish bank guarantee.

For Petitioner : Mr.N.Inbarajan
For Respondents : Mrs.G.Dhana Madhri

ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by the condition imposed by the second respondent while granting the interim order in the appeal filed by them.

3. As against the order of assessment passed by the first respondent, the petitioner preferred an appeal before the second respondent in VAT. A.P.No.101/2016 and also prayed for stay by filing S.P.No.01/2018. The second respondent, by order dated 15.5.2018, granted an interim order subject to the condition that the petitioner should furnish bank guarantee for the balance tax and entire penalty. Aggrieved by that, the petitioner is before this Court.

4. It is contended by the learned counsel for the petitioner that the petitioner already paid 90% of the disputed tax and the

second respondent, without appreciating the said act, passed the impugned order.

5. The learned Additional Government Pleader submits that the petitioner may be permitted to execute personal bond instead of bank guarantee as directed by the second respondent.

6. Having regard to the submission made by the learned counsel on either side, the writ petition is disposed of with a direction to the petitioner to execute a personal bond for the balance of tax and entire penalty, in lieu of bank guarantee, within a period of two weeks from the date of receipt of a copy of this order. In all other aspects, the impugned order passed by the second respondent will remain unaltered. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

RS

To

1.The Assistant Commissioner (CT), Thudiyalur Circle,
Coimbatore.

2.The Appellate Deputy Commissioner (CT) (Main) (FAC),
Coimbatore.

+1cc to Mr.N.Inbarajan, Advocate sr.no.36398

+1cc to Special Government Pleader(Taxes), sr.no.37653

सत्यमेव जयते

WP.No.14051 of 2018&

WMP.No.16605 of 2018

gj(co)
nr 20/06/2018

WEB COPY