IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.25767 of 2018

and
WMP.No.29975 of 2018

Sharpwire Industries India Private Limited
Represented by its Managing Director
Kamal A.Khatri ..Petitioner

Vs

1. The Appellate Deputy Commissioner
(ST) Chennai (South)
C.T.Building Annexure 3rd Floor
Greams Road, Chennai-600 006.

2. The Assistant Commissioner (ST)
Thiruverkadu Assessment Circle
No.2, Aligiri Street, Thenpalani Nagar
Kolathur, Chennai-600 099. ..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent passed in SP/30/2018 in AP/87/VAT/2018 dated 28.08.2018 and to quash the same, insofar as directing the petitioner to furnish Bank Guarantee for tax of Rs.6,34,076/- and further direct the second respondent to accept personal bond for the sum of Rs.6,34,076/- instead of Bank Guarantee pending disposal of appeal in AP/87/VAT/2018.

For Petitioner : Mr.N.Murali
For Respondents: Mrs.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (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 28.08.2018 issued by the first respondent, calling upon the petitioner to furnish Bank Guarantee towards the balance tax of Rs.6,34,076/-, 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.N.Murali, 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 to the tune of Rs.6,34,076/-. 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.22427 of 2018 dated 31.08.2018 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 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.6,34,076/- instead of Bank Guarantee as directed by the first respondent in the impugned order.

(b) Such personal bond shall be furnished by the petitioner within a

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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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS ix )

//True Copy//

Sub Assistant Registrar

mk

To

1. The Appellate Deputy Commissioner
   (ST) Chennai (South)
   C.T.Building Annexure 3rd Floor
   Greams Road, Chennai-600 006.

2. The Assistant Commissioner (ST)
   Thiruverkadu Assessment Circle
   No.2, Aligiri Street, Thenpalani Nagar
   Kolathur, Chennai-600 099.

+1cc to Mr. , Advocate SR.No. 68648
+1 CC TO GOVERNMENT PLEADER SR.NO. 68274

W.P.No.25767 of 2018

ASK(12/10/2018)

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