IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.11.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
W.P.Nos.29795 & 29799 of 2018
and
WMP.Nos.34768 & 34769 of 2018 in WP.No.29795 of 2018
and
WMP.Nos.34772 & 34773 of 2018 in WP.No.29799 of 2018

M/s.Susee Trucks Pvt. Ltd.,
Rep. by its Managing Director S.Manivannan
No.271, Chittoor High Road,
Katpadi, Vellore,
Vellore District. ..Petitioner
(in both WPs)

Vs

1. The State Tax Officer
   Gudiyatham (East) Circle
   Gudiyatham
   Vellore District.

2. The Appellate Deputy Commissioner (CT)
   Commercial Taxes Building
   Vellore, Vellore District. ..Respondents
(in both WPs)

Writ Petition No.29795 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent in his proceedings made in S.P.No.259/18 in AP 201/18 dated 05.10.2018 and 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 2011-2012 under the TNVAT Act, 2006.

Writ Petition No.29799 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent in his proceedings made in S.P.No.258/18 in AP 238/18 dated 05.10.2018 and 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 2010-2011 under the TNVAT Act, 2006.

For Petitioner : Mr.S.Rajasekar
Mrs.R.Hemalatha
(in both Wps)

For Respondents: Mr.V.Haribabu
Additional Government Pleader
(in both WPs)

COMMON ORDER

Mr.V.Haribabu, learned Additional Government Pleader takes notice for the respondents. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the orders dated 05.10.2018 issued by the second respondent, calling upon the petitioner to furnish Bank Guarantee towards the balance tax and penalty of Rs.4,33,620/- in WP.No.29795 of 2018 and Rs.3,53,031/- in WP.No.29799 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 of Rs.4,33,620/- in WP.No.29795 of 2018 and Rs.3,53,031/- in WP.No.29799 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.

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 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 the balance tax and penalty of Rs.4,33,620/- in WP.No.29795 of 2018 and

Rs.3,53,031/- in WP.No.29799 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

//True Copy//

Sub Assistant Registrar

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To

1. The State Tax Officer
   Gudiyatham (East) Circle
   Gudiyatham
   Vellore District.

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

+2ccs to M/s.R.Hemalatha, Advocate, S.R.No.78543 and 78544
+1cc to the Government Pleader, S.R.No.78447

W.P.Nos.29795 & 29799 of 2018

KAN(CO)

rrs 12/12/2018