

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.29560 & 29568 of 2018
and
WMP.Nos.34515 & 34524 of 2018

Rajalakshmi Textile Processors Pvt. Ltd.,
Represented by its Managing Director
Silesh Ethiraj, B.P.Agraharam Road,
Ramanathapuram, Pudur Post,
Erode.

..Petitioner

(in WP.Nos. 29560 & 29568 of 2018)

Vs

1.The Commercial Tax Officer
Periya Agraharam Circle
Erode.

2.The Appellate Deputy Commissioner (ST)
Erode.

..Respondents

(in WP.Nos.29560 & 29568 of 2018)

Writ Petition No.29560 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the second respondent herein in S.P.No.39/2018 in A.P.TNGST 02/2018 dated 09.10.2018 and to quash the same while directing the petitioner to furnish personal bond instead of bank guarantee or immovable property as ordered by the second respondent in his proceedings dated 09.10.2018.

Writ Petition No.29568 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the second respondent herein in S.P.No.40/2018 in A.P.TNGST 03/2018 dated 09.10.2018 and to quash the same while directing the petitioner to furnish personal bond instead of bank guarantee or immovable property as ordered by the second respondent in his proceedings dated 09.10.2018.

For Petitioner : Mr.K.Narayanan
for Mr.N.Inbarajan
(in WP.Nos.29560 & 29568 of 2018)

For Respondents: Mr.M.Hariharan
Additional Government Pleader
(in WP.Nos.29560 & 29568 of 2018)

COMMON ORDER

Mr.M.Hariharan, 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 09.10.2018 issued by the second respondent, calling upon the petitioner to furnish Bank Guarantee towards the balance tax and surcharge amount of Rs.10,02,640 and penalty of Rs.30,07,920/- in WP.No.29560 of 2018 and the balance tax and surcharge amount of Rs.33,71,261/- and penalty of Rs.1,01,13,785/- in WP.No.29568 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. Mr.K.Narayanan, 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 surcharge amount of Rs.10,02,640 and penalty of Rs.30,07,920/- in WP.No.29560 of 2018 and the balance tax and surcharge amount of Rs.33,71,261/- and penalty of Rs.1,01,13,785/- in WP.No.29568 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.No.14051 of 2016 dated 12.06.2018 is enclosed in the typed set of papers.

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 surcharge amount of Rs.10,02,640 and penalty of Rs.30,07,920/- in WP.No.29560 of 2018 and the balance tax and surcharge amount of Rs.33,71,261/- and penalty of Rs.1,01,13,785/- in WP.No.29568 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. सत्यमेव जयते

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

mk

To

1. The Commercial Tax Officer
Periya Agraharam Circle
Erode.

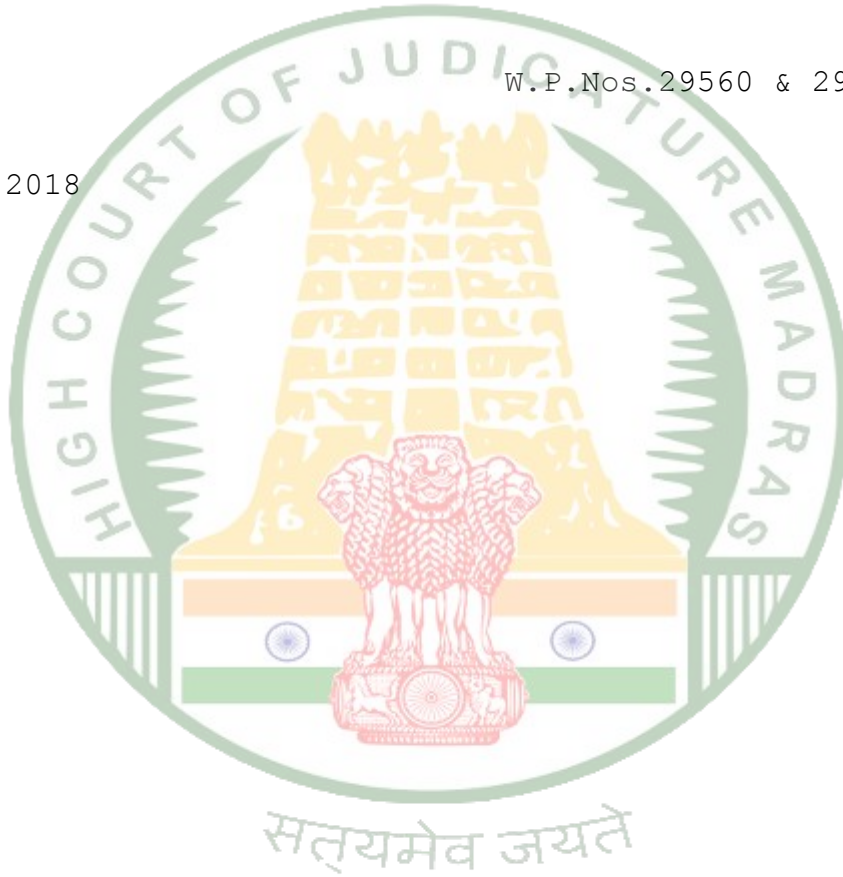
2. The Appellate Deputy Commissioner (ST)
Erode.

+1 cc to Mr.N.Inbarajan, Advocate Sr.No.76577

+1 cc to The Special Government Pleader, Sr.No.77405

W.P.Nos.29560 & 29568 of 2018

SR(CO)
CSL/27.11.2018



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