IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.3428 of 2019
and
WMP.No.3721 of 2019

M/s. Raja Rajan Traders,
Represented by its Proprietrix,
R. Shanthi
No. 288/4-B, Salem Main Road,
Chinnasalem Taluk,
Villupuram District,
PIN-606201. ...Petitioner

Vs

1. Commercial Tax Officer (Addl) (FAC),
Kallakurichi Assessment Circle,
Kallakurichi.

2. The Secretary,
The Sales Tax Appellate Tribunal,
Chennai- Main Branch,
City Civil Court Buildings,
High Court Campus,
Chennai-600 104.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari or any other appropriate writ order or direction under Article 226 of the Constitution of India calling for the records on the files of the Second Respondent herein in its T.P.No.20/17 in TA No.76/17 dated 06.12.2018 and quash the same in so far as it relates to furnishing of bank guarantee.

For Petitioner: Mr. S. Rajesh

For Respondent: Mr.V.Har Babu,
Additional Government Pleader (taxes)

O R D E R

Mr.V.Hari Babu, Additional Government Pleader (Taxes) takes notice for the respondents. At request and by consent of both parties, the Writ Petition itself is taken up for final disposal at the stage of admission.

2. The short point raised by the petitioner in this Writ Petition revolves around the direction of the Tamil Nadu Sales Tax Appellate Tribunal, the 2nd respondent herein, to the petitioner in its order dated 06.12.2018 to furnish a Bank Guarantee for the disputed amount of penalty of Rs.2,34,436/- to the satisfaction of the Assessing Officer within 21 days from the date of receipt of the order of the Tribunal.

3. The petitioner had approached the Tamil Nadu Sales Tax Appellate Tribunal challenging the order of the Appellate Deputy Commissioner (CT) dated 02.05.2017. The entire tax demand has been paid by the petitioner and what remains is only the penalty, for which the petitioner sought an interim stay before the Tamil Nadu Sales Tax Appellate Tribunal. The Tribunal directed the petitioner to furnish a Bank Guarantee, against which direction the petitioner is before this Court.

4. The learned counsel appearing for the petitioner requests that he may be permitted to furnish a personal bond in substitution of the Bank Guarantee as directed by the Tribunal.

5. Mr. Hari Babu does not dispute the position that the entire tax has been paid and does not express any serious objection to the request made by the petitioner herein. In fact, this type of direction has been sought and granted in several matters before this Court over the years.

6. In the aforesaid factual circumstances and considering the position that the entire tax liability has been paid by the petitioner, I believe the ends of justice would be met by permitting the petitioner herein to furnish a personal bond in place of the Bank Guarantee as directed by the Tribunal.

7. Accordingly, the impugned order passed by the Tribunal is modified to the extent to which the petitioner is permitted to furnish a personal bond instead of a bank guarantee as directed by it.

8. This Writ Petition is disposed of in the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True copy//

Sub Assistant Registrar

mrn

To

1. The Commercial Tax Officer (Addl) (FAC),
Kallakurichi Assessment Circle,
Kallakurichi.

2. The Secretary,
The Sales Tax Appellate Tribunal,
Chennai- Main Branch,
City Civil Court Buildings,
High Court Campus,
Chennai-600 104

+1cc to Mr.S.Sivanandham, Advocate SR.No.10071

+1cc to Special Government Pleader (Taxes) SR.No.10994

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GMY(13/03/2019)