

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 01.02.2019

CORAM
THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.3151 of 2019

M/s. Vijayalakshmi Agencies,
Represented by its Proprietor,
M.Ramesh,
No.3/40, Mariyamman Koil Street,
Thirumarugal Village,
Nannilam Taluk,
Tiruvarur District - 609702.

...Petitioner

Vs.

1.The Tamil Nadu Sales Tax Appellate Tribunal,
Represented by its Secretary,
2nd Floor, City Civil Court Buildings,
High Court Campus,
Chennai - 600104.

2.The Commercial Tax Officer,
Nannilam Assessment Circle,
Nannilam, Tiruvarur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in T.P.No.11 of 2018 in T.A.No.131 of 2018 dated 03.01.2019 and quash the same as illegal, arbitrary, without jurisdiction and authority of law and contrary to the principles of natural justice in so far as it directs the petitioner to furnish the Bank Guarantee and further direct the Respondents to accept the personal Bond instead of Bank Guarantee.

For Petitioner : Mr.K.Soundararajan

For Respondents : Mr.V.Haribabu
Additional Government Pleader

O R D E R

Mr.V.Haribabu, learned Additional Government Pleader (Tax) takes notice for the respondents. By consent of parties, this main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the order dated 03.01.2019 issued by the first respondent, calling upon the petitioner to furnish Bank Guarantee towards the disputed penalty of Rs.3,66,066/-, 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.K.Soundararajan, learned counsel for the petitioner submitted that the petitioner has already paid the admitted tax liability at the time of inspection and therefore, during the pendency of the appeal, the petitioner cannot be burdened with furnishing a Bank Guarantee for the penalty of Rs.3,66,066/-. 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 instead of Bank Guarantee.

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 the admitted tax liability at the time of inspection, 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.3,66,066/- 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 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.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

1.The Secretary,
The Tamil Nadu Sales Tax Appellate Tribunal,
2nd Floor, City Civil Court Buildings,
High Court Campus,
Chennai - 600104.

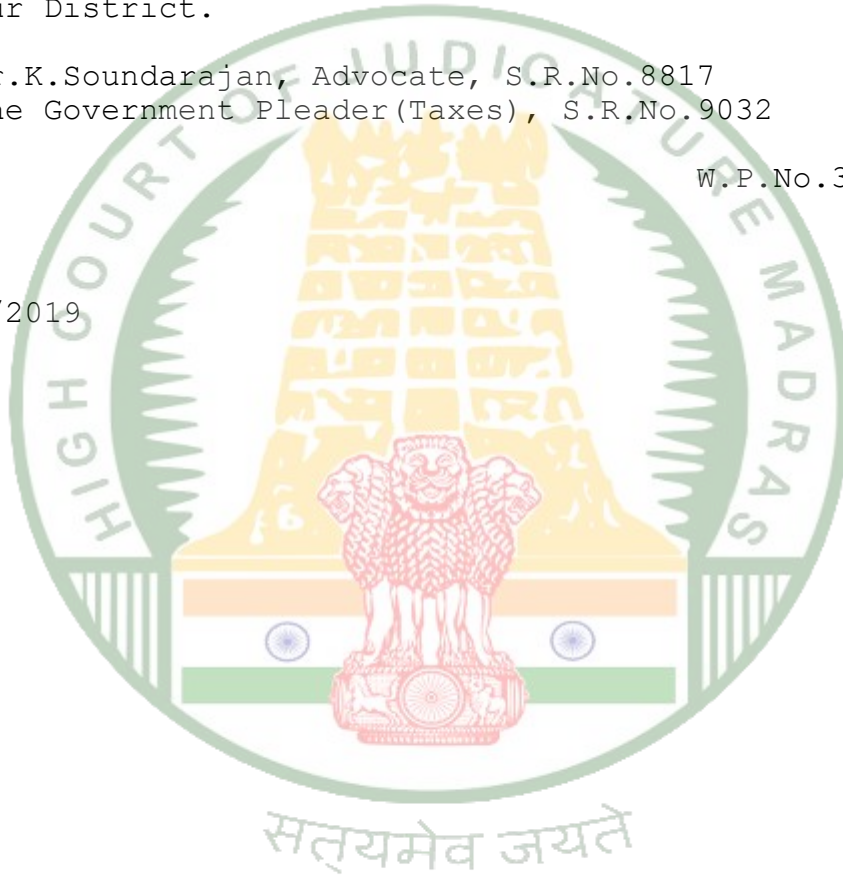
2.The Commercial Tax Officer,
Nannilam Assessment Circle,
Nannilam,
Tiruvarur District.

+1cc to Mr.K.Soundarajan, Advocate, S.R.No.8817
+1cc to the Government Pleader(Taxes), S.R.No.9032

W.P.No.3151 of 2019

GMR(CO)

rrs 26/02/2019



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