

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2019

CORAM:

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

Writ Petition No.7543 of 2019

M/s. C.R.Caterers India Pvt. Ltd.,
Rep. by its Director C.Ramachandran,
No.15-16-17, 2nd Floor,
Vision Towers Yogam Garden,
Valasaravakkam, Chennai 600 087

... Petitioner

vs.

1. The Appellate Deputy Commissioner (ST) (FAC),
Chennai (North), C.T.Buildings Annexe,
3rd Floor, Greams Road, Chennai 600 006

2. The State Tax Officer,
Muthalpet Assessment Circle,
No.199 Thambu Chetty Street,
Chennai 600 001

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the first respondent in his proceedings in SP/4/2019 in AP/21/VAT/2019 dated 08.02.2019 and to quash the same as illegal in so far as the condition of furnishing of Bank Guarantee for the amount of Rs.9,11,046/- is concerned.

For Petitioner : Mr. S.Ramanathan
For Respondents : Mr. V.Haribabu, AGP (Taxes)

O R D E R

Mr.V.Haribabu, learned Additional Government Pleader (Taxes) takes notice for the respondents. By consent expressed by both the learned counsel, writ petition is taken up for final disposal at the stage of admission itself.

2. The prayer in the writ petition is for issuance of writ of certiorari calling for the order of the first respondent, the Appellate Deputy Commissioner (ST) (FAC) Chennai (North), in SP/4/2019 in AP/21/VAT/2019, dated 08.02.2019 and to quash the same, in so far as it imposes a condition of furnishing of bank guarantee to the tune of Rs.9,11,046/-.

3. The order of the Appellate Deputy Commissioner (ST) (FAC) imposes two conditions: (i) payment of a sum of Rs.2,27,761/- on or before 07.03.2019; (ii) furnishing of valid security by way of bank guarantee for an amount of Rs.9,11,046/-, comprising of Rs.4,55,523/- as balance of tax and Rs.4,55,523/- being penalty, on or before 07.03.2019. The learned counsel appearing for the petitioner states that the amount of Rs.2,27,761/- has been paid. However, he is aggrieved against the condition imposed by the first respondent in regard to the furnishing of bank guarantee for the balance of the disputed dues.

4. The learned counsel appearing for the petitioner submits that the condition imposed in regard to the furnishing of bank guarantee seriously prejudices the petitioner and requests that the same be modified by directing the petitioner to furnish a personal bond instead of bank guarantee as directed by the first appellate authority.

5. Identical requests made have been considered by this Court favourably and the conditional order modified by permitting the petitioner to furnish a personal bond in the place of bank guarantee as directed by the appellate authorities. The order of this Court, dated 31.08.2018 in Writ Petition No.22427 of 2018 is one such.

6. Mr. V.Haribabu, learned Additional Government Pleader (Taxes) appearing on behalf of the respondents fairly does not dispute the aforesaid position or contest the request made.

7. In the light of the aforesaid and taking into account the position that the petitioner has remitted the tax component of a sum of Rs.2,27,761/- as directed by the first appellate authority, the petitioner is permitted to furnish a personal bond in respect of the balance of tax of Rs.9,11,046/- within a period of seven days from date of receipt of a copy of this order. It is made clear that impugned order dated 08.02.2019 stands modified to this limited extent alone.

8. The writ petition is disposed of in the aforesaid terms.
No costs.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Appellate Deputy Commissioner (ST) (FAC),
Chennai (North), C.T.Buildings Annexe,
3rd Floor, Greams Road, Chennai 600 006
 2. The State Tax Officer,
Muthalpet Assessment Circle,
No.199 Thambu Chetty Street, Chennai 600 001
- +1 cc to Mr.S.Ramanathan, Advocate, S.R.No.24385

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AK(CO)
SSM(27/04/2019)



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