

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2019

CORAM:

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

Writ Petition Nos.10786, 10796, 10800 and 10805 of 2019
and connected WMPs

Mahaveer Auto Associates
rep. By its Partner
D.Kamal Kumar

..... Petitioner in the above W.Ps

vs.

1. The Appellate Deputy Commissioner (CT)
Chennai (Central), C.T.Buildings Annexe,
3rd Floor, Greams Road, Chennai 600 006
2. The Assistant Commissioner (ST)
Anna Salai Assessment Circle,
C.T. Buildings Annexe,
4th Floor, Chennai 600 006

..... Respondents in the above W.Ps

Prayer:- Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus call for the impugned proceedings of the 1st respondent passed in S.P.Nos.15, 24, 25 and 26/2019 in APVAT 39, 51, 52 and 53/2019 dated 25.02.2019, 08.03.2019, 08.03.2019 and 08.03.2019 and to quash the same insofar as directing the petitioner to furnish bank guarantee for balance amount of Rs.1,49,956/-, 1,85,372/-, 1,39,325/- and 26,523/- respectively and further direct the 1st respondent to accept personal bond for the sum of Rs.1,49,956/-, 1,85,372/-, 1,39,325/- and 26,523/- respectively instead of bank guarantee pending disposal of appeals in APVAT 39, 51, 52 and 53 of 2019.

For Petitioner : Mr. N.Murali

For Respondents : Ms. G.Dhanamadhri, G.A.

COMMON ORDER

Ms.G.Dhanamadhri, learned Government Advocate takes notice for the respondents. By consent expressed by both the learned counsel, writ petitions are taken up for final disposal at the stage of admission itself.

2. The prayer in these writ petitions is for issuance of writ of Certiorarified Mandamus calling for the orders of the 1st respondent passed in S.P.Nos.15, 24, 25 and 26/2019 in APVAT 39, 51, 52 and 53/2019 dated 25.02.2019, 08.03.2019, 08.03.2019 and 08.03.2019 and to quash the same insofar as directing the petitioner to furnish bank guarantee for balance amount of Rs.1,49,956/-, 1,85,372/-, 1,39,325/- and 26,523/- respectively and further direct the 1st respondent to accept personal bond for the sum of Rs.1,49,956/-, 1,85,372/-, 1,39,325/- and 26,523/- respectively instead of bank guarantee pending disposal of appeals.

3. The assessment years in question are 2007-08, 2008-09, 2009-10 and 2010-11. The orders of the first respondent impose two conditions: (i) payment of a sum of Rs.79,309/- on or before 24.03.2019, Rs.92,686/- on or before 06.04.2019, Rs.69,662/- on or before 06.04.2019 and Rs.13,371/- on or before 06.04.2019 respectively; (ii) furnishing of valid security by way of bank guarantee for an amount of Rs.1,49,956/-, on or before 24.03.2019, Rs.1,85,372/-, on or before 06.04.2019, Rs.1,39,325/- on or before 06.04.2019 and Rs.26,523/- on or before 06.04.2019 respectively. The learned counsel appearing for the petitioner states that the amounts of Rs.87,972/-, Rs.1,09,602/-, Rs.1,20,723/- and Rs.13,590/- have been paid. However, he is aggrieved against the condition imposed by the first respondent in regard to the furnishing of bank guarantees 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. Ms.G.Dhanamadhri, learned Government Advocate 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.87,972/-, Rs.1,09,602/-, 1,20,723/- and 13,590/- respectively for the assessment years 2007-08, 2008-09, 2009-10 and 2010-11 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.1,49,956/-, Rs.1,85,372/-, Rs.1,39,325/- and Rs.26,523/- respectively within a period of seven (7) days from date of receipt of a copy of this order. It is made clear that impugned orders dated 25.02.2019, 08.03.2019, 08.03.2019 and 08.03.2019 stand modified to this limited extent alone.

8. These Writ Petitions are disposed of in the aforesaid terms. Connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2. The Assistant Commissioner (ST)
Anna Salai Assessment Circle,
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4th Floor, Chennai 600 006.

+4cc to M/S.N.Murali, Advocate Sr.36427 to 36430
+1cc to the Special Government Pleader Sr.35966

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srg 11/06/2019