

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2019

CORAM:

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

WP. No.10660 of 2019

and

WMP. Nos.11129, 11130 & 11131 of 2019

M/s.Veekay Diamants
rep. by its Partner Vinod V Doshi
No.13/14, Third Floor,
Nathella Jubilee Plaza,
No.123, NSC Bose Road,
Chennai 600 079. Petitioner

vs.

- 1.The Assistant Commissioner,
Peddunaickentpet Assessment Circle,
Wavoo Mansion, Chennai 600 001.
- 2.The Appellate Deputy Commissioner (ST) (FAC)
Chennai (North), III Floor,
C T Building Annexe,
Greems Road, Chennai 600 006.
- 3.The Branch Manager, Bank of India,
No.59, Devaraja Mudali Street,
Chennai 600 003. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus call for the records on the files of the Second Respondent in S.P/6/2019 in AP/32/VAT/2018 dated 09.02.2019 and quash the same as illegal and direct the respondents to grant time to pay 25% of the disputed tax and to grant absolute stay for the balance 50% of disputed tax and penalty amount without insisting security in the form of bank guarantee till the disposal of the Appeal in AP/32/VAT/2018.

For Petitioner : Mr. P.Prithvi Chopda

For Respondents : Mr. M.Hariharan,
Additional Government Pleader (T)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (T) 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 Certiorarified Mandamus calling for the orders of the 2nd respondent passed in S.P. No.6 of 2019 in AP/32/VAT/2018 dated 09.02.2019 and to quash the same insofar as directing the respondents to grant time to pay 25% of the disputed tax and to grant absolute stay for the balance 50% of disputed tax and penalty amount without insisting security in the form of bank guarantee till the disposal of the Appeal in AP/32/VAT/2018.

3. The assessment year in question is 2015-16. The order of the second respondent impose two conditions: (i) payment of a sum of Rs.3,06,023/- on or before 08.03.2019 (ii) furnishing of valid security by way of bank guarantee for an amounts of Rs.6,12,049/- (balance of tax) and Rs.12,24,097/- (Penalty), on or before 08.03.2019. The learned counsel appearing for the petitioner states that Rs.3,06,023/- has been paid on 10.04.2019 vide Demand Draft No.064283/10.04.2019, Bank of India, Sowcarpet, Chennai -79 towards 25% of the arrears of Tax. However, he is aggrieved against the condition imposed by the second respondent in regard to the furnishing of bank guarantees for the balance of the disputed dues and penalty.

4. The learned counsel appearing for the petitioner submits that the condition imposed in regard to the furnishing of bank guarantees seriously prejudices the petitioner and requests that the same be modified by directing the petitioner to furnish a personal bond instead of bank guarantees 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.Hariharan, learned Additional Government Pleader (T) 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 25% the tax component as

directed by the first appellate authority, the petitioner is permitted to furnish a personal bond in respect of the balance of tax of 50% of the disputed tax and penalty viz., Rs.6,12,049/- and Rs.12,24,097/- within a period of one (1) week from date of receipt of a copy of this order. It is made clear that impugned order dated 09.02.2019 stands modified to this limited extent alone. Upon compliance of this order the attachment of the Bank Accounts shall stand lifted forthwith.

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

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

rkp

To

- 1.The Assistant Commissioner,
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- 2.The Appellate Deputy Commissioner (ST) (FAC)
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Greens Road, Chennai 600 006.
- 3.The Branch Manager, Bank of India,
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Chennai 600 003.

+1cc to Mr.T.Pramodkumar Chopda, Advocate SR.No.36175

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VBA (CO)
GMY (16/04/2019)