

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.04.2019

CORAM:
THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

Writ Petition No.12089 of 2019
& WMP No.12358 of 2019

United Engineering Industries
rep. by its Proprietor
R.Kumar

... Petitioner

vs.

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

2. The State Tax Officer,
Thirumidivakkam Assessment Circle,
No.32 & 33, Sripuram 2nd Street,
Chrompet,
Chennai - 600 044.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the 1st respondent passed in S.P.No.13/2019 in AP/TNGST/01/2019 dated 26.03.2019 and to quash the same in so far as directing the petitioner to furnish Bank Guarantee for balance amount of Rs.8,62,720/- and further direct the 1st respondent to accept personal bond for the sum of Rs.8,62,720/- instead of bank guarantee pending disposal of appeal in AP/TNGST/01/2019.

For Petitioner : Mr. K.Narayanan
for Mr.N.Murali

For Respondents : Mr. M.Hariharan, AGP (Taxes)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Taxes) takes notice for the respondents. By consent expressed by both the learned counsel, the 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) Chennai (East), dated 26.03.2019 and to quash the same, insofar as directing the petitioner to furnish bank guarantee for balance amount of Rs.8,62,720 and further direct the 1st respondent to accept personal bond for the sum of Rs.8,62,720/- instead of bank guarantee pending disposal of appeal.

3. The assessment year in question is 2005-2006. The first respondent, vide impugned order, while admitting that the petitioner had already paid a sum of Rs.78,156/-, which along with the pre-deposit of Rs.99,563/- constitutes 50% of the disputed tax, directed the petitioner to furnish valid security by way of bank guarantee in respect of the balance of tax, surcharge and penalty for an amount of Rs.8,62,720/- on or before 25.04.2019. The petitioner 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 interests of 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.M.Hariharan, learned Additional Government Pleader 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 a sum of Rs.78,156/- which along with the pre-deposit of Rs.99,563/- constitutes 50% of the disputed tax, as admitted by the first respondent vide impugned order, the petitioner is permitted to furnish a personal bond in respect of the balance of tax, surcharge and penalty of Rs.8,62,720/- within a period of seven days from date of receipt of a copy of this order. It is made clear that impugned order dated 26.03.2019 stands modified to this limited extent alone.

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

Sd/-
Assistant Registrar (AD IV)

//True Copy//

Sub Assistant Registrar

sl

To

1. The Appellate Deputy Commissioner (ST)
Chennai (East), C.T.Buildings Annexe,
3rd Floor, Greams Road,
Chennai 600 006
2. The State Tax Officer,
Thirumidivakkam Assessment Circle,
No.32 & 33, Sripuram 2nd Street,
Chrompet, Chennai - 600 044.

+1cc to Mr.N.Murali, Advocate, S.R.No.38466

+1cc to the Government Pleader (Taxes), S.R.No.39016

Writ Petition No.12089 of 2019
& WMP No.12358 of 2019

JP (CO)

RRS (29/05/2019)

सत्यमेव जयते

WEB COPY