

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2019

CORAM:

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

Writ Petition Nos.12303 and 12305 of 2019

Tvl.Sri Sai Enterprises
rep. by its Proprietor
Mr.S.G.Saravanan

... Petitioner in both W.Ps
vs.

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

2. The Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
No.27, Makkaram Garden,
Chennai - 600 099.

.. Respondents in both W.Ps

Common Prayer:- Petitions 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 and quash the impugned proceedings in S.P.Nos.23 & 24/2019 in AP/30&31/VAT/2019 dated 05.04.2019 insofar as the condition of filing of bank guarantee for the penalty amount of Rs.5,08,215/- and 89,705/-.

For Petitioner : Mr. P.R.Kumar

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

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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 petitions are taken up for final disposal at the stage of admission itself.

2. The prayer in the writ petitions is for issuance of writ of certiorari calling for the order of the first respondent, the Appellate Deputy Commissioner (ST) South, dated 05.04.2019 and to quash the same, insofar as directing the petitioner to furnish bank guarantee for penalty amount of Rs.5,08,215/- and Rs.89,705/- .

3. The assessment years in question are 2015-2016 and 2016-2017. The first respondent, vide impugned orders, directed the petitioner to furnish valid security by way of bank guarantee in respect of the penalty for an amount of Rs.5,08,215/- and Rs.89,705/- respectively on or before 05.05.2019. The petitioner is aggrieved against the condition imposed by the first respondent in regard to the furnishing of bank guarantee for the penalty.

4. The learned counsel 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 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.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, the petitioner is permitted to furnish a personal bond in respect of the penalty of Rs.5,07,815/- and Rs.89,705/- respectively within a period of seven days from date of receipt of a copy of this order. It is made clear that impugned orders dated 05.04.2019 stand modified to this limited extent alone.

8. The Writ Petitions are disposed of in the aforesaid terms. No costs.

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Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

To

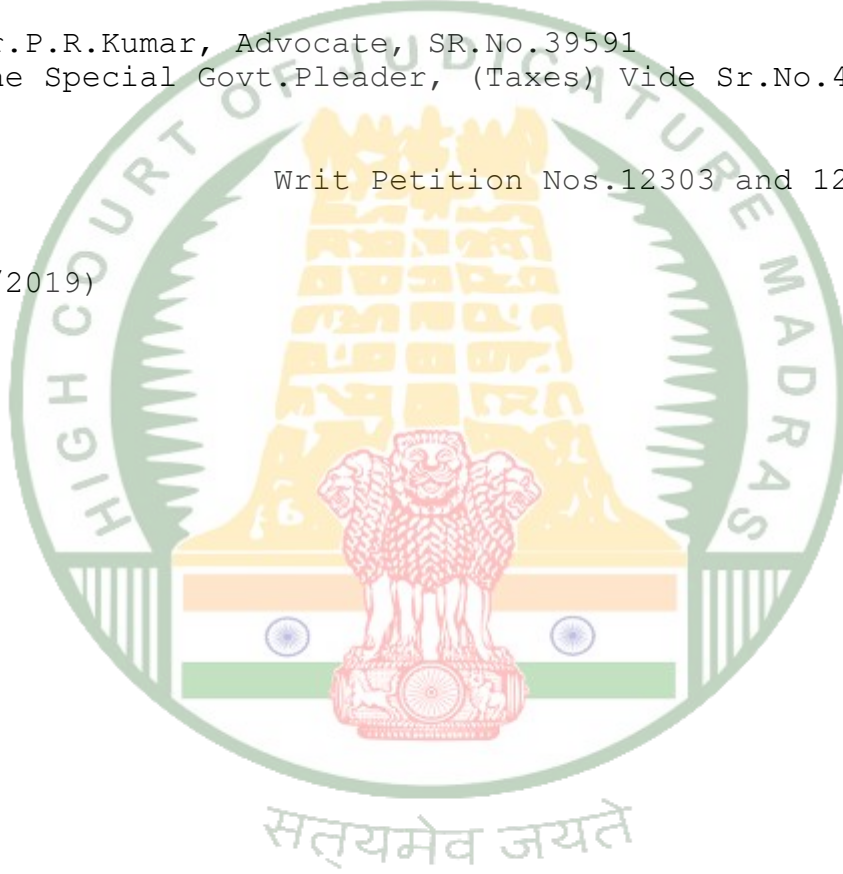
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+1cc to Mr.P.R.Kumar, Advocate, SR.No.39591

+1cc to the Special Govt.Pleader, (Taxes) Vide Sr.No.40844

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Kak(29/04/2019)



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