IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE: 17.07.2019
CORAM
THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.19875, 19882, 19887, 19893, 19895 & 19898 of 2019
&
W.M.P.Nos.19408, 19413, 19421, 19424, 19427 & 19429 of 2019

W.P.No.19875 of 2019

M/s.Natwest Estates Private Ltd.,
Rep. By its Director Mr.T.V.Rama Kumar
Plaza House, No.7, Mayilai Ranganathan Street
T.Nagar, Chennai - 600 017
.. Petitioner in all WPs

Vs.

1. The State Tax Officer
Pondy Bazar Assessment Circle
No.46 Greenways Road
Chennai - 600 028

2.The Appellate Deputy Commissioner (ST)
Chennai (Central), C.T.New Buildings (Annexe)
3rd Floor, Greams Road
Chenai - 600 006
.. Respondents in all WPs

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the second respondent in SP No.66/2019 in APV No.171 of 2019,SP No.67/2019 in APV No.172 of 2019,SP No.68/2019 in APV No.173 of 2019,SP No.69/2019 in APV No.174 of 2019,SP No.70/2019 in APV No.175 of 2019,SP No.71/2019 in APV No.176 of 2019 respecively quash the impugned proceedings dated 07.06.2019 and further direct the second respondent to grant an absolute stay without insisting upon any condition regarding the filing of security pending disposal of the appeal and further direct the second respondent to dispose of the appeal at an early date.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Ms.G.Dhanamadhri
Government Advocate

COMMON ORDER

This common order will dispose of all these six writ petitions.

2. Mr.V.Sundareswaran, learned counsel on record for writ petitioner in all these six writ petitions is before this Court. Ms.G.Dhanamadhri, learned Government Advocate accepts notice on behalf of both the respondents in all the six writ petitions.

3.With consent of learned counsel on both sides, main writ petitions are taken up, heard out and are being disposed of.

4. Considering the trajectory of the hearing today, it is not necessary to set out facts in great detail. Suffice to say that instant writ petitions arise under 'Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006)', which shall hereinafter be referred to as 'TNVAT Act'.

5.Writ petitioner is a dealer under TNVAT Act. Six different Assessment Orders came to be passed against the writ petitioner for the Assessment Years 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16. Writ petitioner assailed these six Assessment Orders by way of 6 separate statutory appeals before the Second respondent vide A.P.V.Nos. 171 of 2019, 172 of 2019, 173 of 2019, 174 of 2019, 175 of 2019 and 176 of 2019. This Court is informed that second respondent is the Appellate Authority under TNVAT Act. In these six statutory appeals, writ petitioner took out stay petitions being S.P.Nos.66, 67, 68, 69, 70 and 71 of 2019. These stay petitions came to be disposed of by the second respondent Appellate Authority, by way of six separate orders, all dated 07.06.2019 wherein and whereby the writ petitioner was directed to pay 25% of the tax and penalty qua impugned order. To be noted, writ petitioner had already deposited 25% by way of pre-deposit for preferring the statutory appeals. Therefore with regard to the balance 50%, writ petitioner was directed to furnish Bank Guarantee.

6.Assailing each of the aforesaid 6 orders in six stay petitions in six statutory appeals, all dated 07.06.2019, writ petitioner has filed instant six writ petitions.

7. Learned counsel for writ petitioner, in the hearing circulated two orders made by a Hon'ble single Judge of this Court. One order is dated 06.06.2018 made in W.P.Nos.13529 and 13530 of 2018 and the other order is dated 13.06.2018 made in W.P.No.14246 of 2018.

8. Learned counsel for writ petitioner submitted that these two orders were passed in similar writ petitions i.e., under similar circumstances in writ petitions with similar factual setting.

9. A perusal of the aforesaid two orders reveals that those orders came to be passed owing to the State counsel making a statement that writ petitioner may be permitted to execute a personal bond instead of a Bank Guarantee as directed by the first respondent.

10. This is recorded in Paragraph 4 in both the orders. To be noted, paragraph 4 in both the orders are ad-verbatim the same and it reads as follows:

> '4. The learned Additional Government Pleader submits that the petitioner may be permitted to execute a personal bond instead of bank guarantee as directed by the first respondent'

11. Learned Revenue counsel, who has accepted notice on behalf of both the respondents, submitted that the instant writ petitions are similar to the aforesaid earlier writ petitions. In other words, learned State counsel submits that instant writ petitions are covered by aforesaid orders and similar orders may please be passed in the instant writ petitions also.

12. In the light of the stated position of the respondents articulated by State counsel, these writ petitions are disposed of by modifying the impugned orders as far as it directs Bank Guarantee to be furnished for balance 50% qua tax and penalty. As far as this limb of the impugned order in each of these six writ petitions is concerned, the same will stand modified to the extent that with regard to balance 50% of tax and penalty (balance after giving credit to 25% pre-deposit for the statutory appeal and 25% payment already made qua impugned order), writ petitioner shall furnish personal bond for the entire balance 50%. Though obvious, for the sake of specificity, it is made clear that in all other respects the six impugned orders will remain undisturbed. To be noted, writ petitioner in these writ petitions is a private limited company and is therefore, a juristic person. Under such circumstances, personal bond, if any, obviously has to be executed by a natural person.

13. On instructions, learned counsel for writ petitioner Mr.V.Sundareswaran submits that personal bond will be executed by the deponent of the affidavit filed in support of these six writ petitions, i.e., Mr.T.V.Rama Kumar, Son of Mr.T.Basavaiah, aged 48 years, carrying on business at Plaza House, No.7, Mayilai Ranganathan Street, T.Nagar, Chennai- 600 017.

14. Adverting to the affidavit filed in support of the writ petition, learned counsel for writ petitioner also submits that deponent is one of the directors in the writ petitioner company, which is a dealer under TNVAT Act. Aforesaid personal bond by the aforesaid individual i.e., natural person, shall be furnished within a fortnight from today.

These writ petitions are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The State Tax Officer
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No.46 Greenways Road
Chennai - 600 028

2.The Appellate Deputy Commissioner (ST)
Chennai (Central), C.T.New Buildings (Annexe)
3rd Floor, Greams Road
Chenai - 600 006

+6ccs to Mr.V.Sundareswaran , Advocate SR.No. 60810
+1 cc to Spl Government Pleader Sr.No. 61509
W.P.Nos.19875, 19882, 19887, 19893, 19895 & 19898 of 2019
&
W.M.P.Nos.19408, 19413, 19421, 19424, 19427 & 19429 of 2019

A.SK(13/08/2019)