IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.20903 to 20907 of 2019
&
W.M.P.Nos.20104 and 20108 of 2019

W.P.No.20903 of 2019 to 20907 of 2019

White House Residencies India (P) Ltd.,
Represented by its Managing Driector
D.Ramachandra Prabhu
19, Sivakumar Layout
Bharath Gas Golden Road
Chinnavedampatti
Coimbatore - 641 049 .. Petitioners in all WPs

Vs.

1.The State Tax Officer
Peelamedu North Circle
Coimbatore - 18

2.The Additional Appellate Deputy Commissioner (CT)
FAC, Coimbatore .. Respondents in all WPs

Common Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records on the files of the second respondent in S.P.No.02/2019 to 06/2019 and in VAT A.P.Nos.1024 of 2019 to 1028 of 2019 dated 29.05.2019 and quash the same insofar as the direction to furnish sufficient security in the form of Form G (Bank Guarantee).

For Petitioners in all WPs : Mr.N.Inbarajan
For Respondents in all WPs : Ms.G.Dhanamadhri
Government Advocate

O R D E R

Mr.N.Inbarajan, learned counsel on record for writ petitioner in all the five writ petitions is before this Court. Ms.G.Dhanamadhri, learned Government Advocate, accepts notice on behalf of both the respondents, in all the five writ petitions.

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

3. Considering the narrow scope on which the instant writ petitions now turn, suffice to say that the subject matter arises under 'Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006)', which shall hereinafter be referred to as 'TNVAT Act' for brevity.

4.Revised Assessment Orders came to be passed against the writ petitioner with regard to five Assessment Years, namely 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16.

5.All the five revised Assessment Orders were carried in appeal to the jurisdictional Appellate Deputy Commissioner, who is the Appellate Authority, by way of appeals under Section 51 of TNVAT Act. Payment of 25% of disputed tax is a pre-condition for filing the appeal and the same has been duly paid in all the five appeals.

6.Pending statutory appeals, writ petitioner prayed for stay qua the impugned revised assessment orders.

7. Appellate Authority (second respondent before this Court) passed five separate orders, wherein there was a direction to pay further 25% of disputed tax and furnish bank guarantee for the remaining 50%. To be noted, this is with regard to disputed tax and penalty. It is pointed out that 25%, which is a precondition for the appeal has been paid and another 25% has also been deposited. Instant writ petitions have been filed complaining that one limb of the condition i.e., condition to furnish bank guarantee for balance 50% is onerous. It is submitted that writ petitioner, being a company, the Managing Director of the company Mr.D.Ramachandra Prabu, who is the deponent of the affidavit filed in support of the five writ petitions on hand, may be permitted to furnish personal bond with regard to the balance 50%.

8. Adverting to an order made by a Hon'ble single Judge of this Court, being order dated 04.04.2018 made in W.P.Nos.7790 and 7791 of 2018 and W.M.P.Nos.9704 and 97805 of 2018 therein, it is submitted that such a request was acceded to in a similar matter.

9. There is no disputation or disagreement before this Court between the learned counsel for writ petitioner and learned Revenue counsel that instant five writ petitions are similar to the aforesaid writ petitions i.e., W.P.Nos.7790 and 7791 of 2018 and there is also no disputation or disagreement

that the order dated 04.04.2018 made by another Hon'ble single Judge of this Court has not been carried in appeal.

10. Therefore, all these five writ petitions are disposed of by modifying the five impugned orders being orders dated 29.05.2019 made in S.P.Nos.02 of 2019 in VAT A.P.No.1024 of 2019, S.P.Nos.03 of 2019 in VAT A.P.No.1025 of 2019, S.P.Nos.04 of 2019 in VAT A.P.No.1026 of 2019, S.P.Nos.05 of 2019 in VAT A.P.No.1027 of 2019, S.P.Nos.06 of 2019 in VAT A.P.No.1028 of 2019 with regard to that limb of the order which directs bank guarantee to be furnished for balance 50% of disputed tax and penalty. That limb will now be stand substituted by a direction that deponent of the affidavit Mr.D.Ramachandra Prabhu, carrying on business at 19, Sivakumar Layout, Bharath Gas Golden Road, Chinnavedampatti, Coimbatore - 641 049 will furnish a personal bond for the balance 50% of disputed tax. The same shall be done within a fortnight from the date of receipt of a copy of this order and the second respondent Appellate Authority shall thereafter dispose of the statutory appeals as expeditiously as possible and in any event within eight weeks from the date of such bond being furnished in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

gpa

To

1.The State Tax Officer
Peelamedu North Circle
Coimbatore - 18

2.The Additional Appellate Deputy Commissioner (CT)
FAC, Coimbatore.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No. 62109
+1cc to the Special Government Pleader(taxes), S.R.No. 62437

W.P.Nos.20903 to 20907 of 2019 &
W.M.P.Nos.20104 and 20108 of 2019

MR(CO)
GN(19/08/2019)