IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.09.2019

CORAM

THE HONOURNABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.27455 of 2019
and
W.M.P.No.26923 of 2019

Dhamu Chettiar Nagai Maaligai
(Represented by its Proprietor)
G.G.Sekar,
70, Cutchery Street,
Gobichettipalayam. ...Petitioner

Vs.

1. The State Tax Officer,
Sathyamangalam.

2. The Appellate Deputy Commissioner (ST)
Erode. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the files of the second respondent herein in his S.P.No.1 of 2019 in AP VAT 08 of 2019 dated 3107.2019 and quash the same insofar as it relates to the direction to furnish security either in Form-G and Form-F for the stayed amount of Rs.4,06,009/-.

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

For Respondents: Mrs.G.Dhana Madhri
Government Advocate.

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate takes notice for the respondents. By consent, the main writ petition is taken up for final disposal.

2. The petitioner is aggrieved against the order of the second respondent dated 31.07.2019, wherein and whereby, the second respondent, while granting stay pending disposal of the appeal, imposed a condition by directing the petitioner to file sufficient security by way of bank guarantee or immovable property for the stayed amount of Rs.4,06,009/-.

3. Heard both sides.

4. It is seen that in respect of assessment year 2016-17, an order of assessment was passed by the Assessing Officer on 14.12.2018. Challenging the said order, the petitioner preferred an appeal before the First Appellate Authority, namely the 2nd respondent. They also prayed for interim stay of the demand, pending disposal of the appeal. The second respondent/ Appellate Authority, while considering and granting stay, imposed the above condition.

5. Learned counsel for the petitioner submitted that since the petitioner has already paid the admitted tax amount and that the Appellate Authority also stayed for collecting the remaining tax and penalty till the disposal of the Appeal or six months from the date, whichever is earlier, again directing the petitioner to furnish the Bank guarantee to the stayed amount of Rs.4,06,009/- causes undue hardship. Therefore, he submitted that instead of furnishing bank guarantee, the petitioner will give personal bond to the tune of Rs.4,06,009/-. He also invited this Court's attention to the order passed in W.P.No.1263/2019 etc. dated 18.01.2019 in similar cases, wherein this Court modified the order of stay granted by the Appellate Authority by permitting the petitioner therein to furnish personal bond instead of bank guarantee.

6. Considering the above stated facts and circumstances and in view of the earlier orders passed by this Court in similar matters, this Writ Petition is disposed of by modifying the order of the second respondent only insofar as Clause (ii) therein as follows:

The petitioner shall furnish personal bond for a sum of Rs.4,06,009/- (Rupees Four Lakhs Six Thousand and Nine only) before the Assessing Officer within a period of two weeks from the date of receipt of a copy of this order. If the petitioner fails to furnish such personal bond within the time stipulated herein, the order passed by the second respondent/Appellate Authority stands restored.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi
To

1. The state Tax Officer,
   Sathyamangalam.

2. The Appellate Deputy Commissioner (ST)
   Erode.

+1 cc to Spl Government Pleader Sr.No. 79856
+1cc to Mr.N.Inbarajan , Advocate SR.No. 79125

W.P.No.27455 of 2019

A.SK(18/09/2019)