IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.09.2019

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THE HONOURNABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.27747, 27751, 27753, 27754, 27757, 27759, 27760 of 2019
and
W.M.P.Nos.27279, 27280, 27282, 27283, 27286, 27289 & 27291 of 2019

W.P.Nos.27747, 27751, 27753,
27754, 27757, 27759, 27760 of 2019

M.S.K.Tex (P) Ltd.,
Represented by its Managing Director
A.Kamalakumar ...Petitioner

Vs.

1. The State Tax Officer,
   Sathyamangalam.

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

Writ Petition No.27747 of 2019 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the second respondent herein in S.P.No.02 of 2019 in AP VAT No. 17 of 2019 dated 31.07.2019 (VAT 2009-2010) and quash the same insofar as the direction to file sufficient security either in Form-G and Form-F for the stayed amount with the direction to furnish personal bond for the stayed amount.

Writ Petition No.27751 of 2019 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the second respondent herein in S.P.No.03 of 2019 in AP VAT No.18 of 2019 dated 31.07.2019 (VAT 2010-2011) and quash the same insofar as the direction to file sufficient security either in Form-G and Form-F for the stayed amount with the direction to furnish personal bond for the stayed amount.

Writ Petition No.27753 of 2019 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the second respondent herein in S.P.No.04 of 2019 in AP VAT No.19 of 2019 dated 31.07.2019 (VAT 2011-2012) and quash the same insofar as the direction to file sufficient security either in Form-G and Form-F for the stayed amount with the direction to furnish personal bond for the stayed amount.

Writ Petition No.27754 of 2019 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the second respondent herein in S.P.No.05 of 2019 in AP VAT No.20 of 2019 dated 31.07.2019 (VAT 2012-2013) and quash the same insofar as the direction to file sufficient security either in Form-G and Form-F for the stayed amount with the direction to furnish personal bond for the stayed amount.'

Writ Petition No.27757 of 2019 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the second respondent herein in S.P.No.06 of 2019 in AP VAT No.21 of 2019 dated 31.07.2019 (VAT 2013-2014) and quash the same insofar as the direction to file sufficient security either in Form-G and Form-F for the stayed amount with the direction to furnish personal bond for the stayed amount.

Writ Petition No.27759 of 2019 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the second respondent herein in S.P.No.07 of 2019 in AP VAT No.22 of 2019 dated 31.07.2019 (VAT 2014-2015) and quash the same insofar as the direction to file sufficient security either in Form-G and Form-F for the stayed amount with the direction to furnish personal bond for the stayed amount.

Writ Petition No.27760 of 2019 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the second respondent herein in S.P.No.08 of 2019 in AP VAT No.23 of 2019 dated 31.07.2019 (VAT 2015-2016) and quash the same insofar as the direction to file sufficient security either in Form-G and Form-F for the stayed amount with the direction to furnish personal bond for the stayed amount.

For Petitioner in all W.P.s : Mr.N.Inbarajan
For Respondents in all W.P.s : Mrs.G.Dhana Madhri
Government Advocate

COMMON ORDER

The petitioner is one and the same in all these writ petitions. The petitioner is aggrieved against the orders of the second respondent dated 31.07.2019, passed in respect of the assessment years 2009-2010 to 2015-2016, wherein and whereby, the second respondent, while granting stay pending disposal of the appeals, imposed a condition by directing the petitioner to file sufficient security by way of bank guarantee or immovable property for the stayed amount in each assessment year.

2. Heard both sides.

3. It is seen that in respect of the assessment years 2009-2010 to 2015-2016, orders of assessment were passed by the Assessing Officer on 07.12.2018. Challenging the said orders, the petitioner preferred appeals before the First Appellate Authority, namely the 2nd respondent. They also prayed for interim stay of the demand, pending disposal of the appeals. The second respondent/ Appellate Authority, while considering and granting stay, imposed the above condition.

4. 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 for the stayed amount causes undue hardship. Therefore, he submitted that instead of furnishing bank guarantee, the petitioner will give personal bond to the stayed amount in each assessment year. He also invited this Court's attention to the order passed in W.P.No.27455 of 2019 dated 16.09.2019, in similar case, 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.

5. Considering the above stated facts and circumstances and in view of the earlier orders passed by this Court in similar matters, these Writ Petitions are disposed of by modifying the orders of the second respondent only insofar as Clause (iii) therein as follows:

The petitioner shall furnish personal bond for the stayed amount in each assessment year, 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 orders passed by the second respondent/Appellate Authority stand restored. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

1. The state Tax Officer,
   Sathyamangalam.

2. The Appellate Deputy Commissioner (ST)
   Erode.

+1 cc to Mr.N.Inbarajan Advocate sr81326
+1 cc to special government Pleader sr82025

W.P.Nos.27747, 27751, 27753, 27754, 27757, 27759, 27760 of 2019

sr(co)
aa27/09/2019