IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.11.2019

CORAM

THE HONOURNABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.31673 of 2019
and
W.M.P.No.31878 of 2019

M/s.Shri Enterprises
Represented by Mr.Muthu Mayandi
Proprietor ...Petitioner

.Vs.

1. The Appellate Deputy Commissioner (ST)
Chennai (East), C.T.Buildings Annexe,
3rd Floor, Greams Road,
Chennai.

2. The State Tax Officer
Nandambakkam Assessment Circle
Chennai-94.

3. The Karur Vysa Bank
KK Nagar Branch
Chennai
Rep. by its Manager. ... Respondents

Writ Petition 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 first respondent herein in SP/38/VAT/2019 in AP/96/VAT/2019 dated 11.10.2019 and quash the same as being invalid and illegal insofar as the order directs the petitioner to file bank guarantee and direct the 1st respondent to permit the petitioner to file personal bond instead of bank guarantee.

For Petitioner : Mr.V.Srikanth

For Respondents: Mr.M.Hariharan
Additional Government Pleader (Tax)
for R1 & R2

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondents 1 & 2. Since the writ petition is disposed of, without affecting the interest of the third respondent, notice to the said respondent is dispensed with.

2. The petitioner is aggrieved against the order of the first respondent dated 11.10.2019, passed in respect of the assessment year 2016-2017, wherein and whereby, the first 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.

3. Heard both sides.

4. It is seen that in respect of the assessment year 2016-2017, an order of assessment was passed by the Assessing Officer on 05.08.2019. Challenging the said order, the petitioner preferred an appeal before the First Appellate Authority, namely the first respondent. They also prayed for interim stay of the demand, pending disposal of the appeal. The first 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 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. He also invited this Court's attention to the order passed in W.P.No.27747 of 2019 batch etc., dated 23.09.2019, in similar cases, wherein this Court modified the orders 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 first respondent only insofar as Clause (5) therein as follows:

The petitioner shall furnish personal bond for the stayed amount 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 first respondent/Appellate Authority stands restored. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Appellate Deputy Commissioner (ST)
Chennai (East), C.T.Buildings Annexe,
3rd Floor, Greams Road,
Chennai.

2.The State Tax Officer
Nandambakkam Assessment Circle
Chennai-94.

+1cc to the Special Government Pleader Sr.94231
+1cc to Mr.V.Srikanth, Advocate Sr.93522

W.P.No.31673 of 2019

sr[co]
srg 14/11/2019