BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.03.2019
CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)Nos.5585 to 5587 of 2019
and
W.M.P(MD)Nos.4411 to 4413 of 2019

M/s.Sri Ram Chemicals,
Represented by its Proprietor
C.R.Shanmukhum ... Petitioner in all W.Ps

Vs.

1.The Appellate Deputy Commissioner (ST)(FAC),
Trichy.

2.The Commercial Tax Officer,
Lalgudi Assessment Circle,
Lalgudi. ... Respondents in all W.Ps

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in S.P.No.04/2019 in A.P. No.08 of 2019, S.P. No.05/2019 in A.P. No.09 of 2019 and S.P. No.06 of 2019 in A.P. No.10 of 2019, dated 11.02.2019 respectively on the file of the first respondent and quash the same in so far as it relates to the furnishing of security bond or bank guarantee of balance of tax and penalty as illegal and direct the second respondent to accept the personal bond to be executed by the petitioners in lieu of security.

(In all W.Ps)
For Petitioner : Mr.N.Sudalaimuthu
for Mr.S.Karunakar

For Respondents : Mr.A.Thiyagarajan
Government Advocate

C O M M O N   O R D E R

These batch of writ petitions have been filed challenging the common order, dated 11.02.2019 passed by the first respondent imposing the following conditions for the grant of stay:

"(i). *There shall be a stay for a period of six months or till the disposal of the case whichever is earlier from the date of issue of this order.*

(ii).The petitioners shall pay further payments of on the disputed Tax, and file a Security Bond or Bank guarantee for the balance tax and penalty as detailed below by year wise on or before 10.03.2019.

S.P.No.	A.P.No.2	Year	Further Tax to be paid (Rs.)	Security Bond or Bank guaranty Amount (Rs.)
S.P.No.04/2019	VAT.AP.08/2019	2014-15	Rs.10,003/-	Rs.83,359/-
S.P.No.05/2019	VAT.AP.09/2019	2015-16	Rs.8,596/-	Rs.71,631/-
S.P.No.06/2019	VAT.AP.10/2019	2017-18	Rs.1,62,270/-	Rs.13,52,253/-

(iii)The above said Bank guarantee shall be for a period of six months that is up to 10.08.2019 and the duplicate copy of Bank guarantee attested by Commercial Tax Officer, Lalgudi Assessment Circle, Lalgudi shall be filed in this office for notice."

2. There is a further direction in the common order that, in the event of the petitioner not complying with the aforesaid directions, the said order shall stand vacated without further notice.

3. The learned counsel for the petitioner submitted that they have paid 25 % of the disputed tax to the second respondent at the time of filing the appeal. He further submitted that the tax amount directed to be paid by the first respondent, as per the aforesaid order, has also been paid by the petitioner. But, according to the learned counsel for the petitioner, the direction given by the first respondent to furnish a Security Bond or a Bank guarantee for the balance amount is an onerous condition and not in accordance with law. The learned counsel for the petitioner placed before this Court a Division Bench judgment of this Court, dated 13.07.2006 in W.A.(MD)No.194 of 2005 and the order of the learned Single Judge, dated 06.03.2018 passed in W.P.(MD)No.4719 to 4723 of 2018, wherein this Court had permitted the petitioner to execute a personal bond in lieu of Security Bond or Bank guarantee. Following the said order, the learned counsel for the petitioner also submitted that this Court had also passed an order, dated 15.02.2019 in W.P.(MD) No.3448 of 2019.

4. Heard Mr.N.Sudalaimuthu, learned counsel appearing for the petitioner and Mr.A.Thiyagarajan, learned Government Advocate appearing for the respondents.

5. I have examined the order of this Court, dated 15.02.2019 in an identical matter in W.P.(MD)No.3448 of 2009. The

submission made by the learned counsel for the petitioner, regarding payment of 25% of the disputed tax by the petitioner at the time of filing the appeal as well as the subsequent payment as directed by the first respondent is also not disputed by the learned Government Advocate for the respondents.

6. Considering all these factors and in the light of the Judgments referred to by the learned counsel for the petitioner, the common order, dated 11.02.2019 passed by the first respondent in S.P.No.04/2019 in A.P. No.08 of 2019, S.P. No.05/2019 in A.P. No.09 of 2019 and S.P. No.06 of 2019 in A.P. No.10 of 2019 are hereby quashed and modified by directing the petitioner to execute a personal bond instead of Bank guarantee or Security bond as detailed below:

S.P.No.	A.P.No.2	Year	Further Tax to be paid (Rs.)	Security Bond or Bank guaranty Amount (Rs.)
S.P.No.04/2019	VAT.AP.08/2019	2014-15	Rs.10,003/-	Rs.83,359/-
S.P.No.05/2019	VAT.AP.09/2019	2015-16	Rs.8,596/-	Rs.71,631/-
S.P.No.06/2019	VAT.AP.10/2019	2017-18	Rs.1,62,270/-	Rs.13,52,253/-

7. With the aforesaid direction, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

Ls/ksa

To

1. The Appellate Deputy Commissioner (ST)(FAC),
Trichy.

2.The Commercial Tax Officer,
Lalgudi Assessment Circle, Lalgudi.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-54133[F] dated 14/03/2019)
+1 CC to M/s.SPL GP (SR-53615[F] dated 13/03/2019)

W.P.(MD)Nos.5585 to 5587 of 2019

12.03.2019

ES/09.05.2019/3P/5C