

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 27.03.2019

CORAM:

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**W.P. (MD) No. 7212 of 2019**

M/s.V.R.Furniture,
Rep., by its Proprietrix K.N.Valsala
101, M.S.Road, Vadasery,
Nagercoil

... Petitioner

Vs.

1.The Appellate Authority/Deputy Commissioner,
Sales Tax, (ST) (FAC)
Tirunelveli.

2.The Commercial Tax Officer,
Nagercoil Rural Assessment Circle,
Nagercoil.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in S.P.No.84/2018 in A.P.No.V/171/2018, dated 22.02.2019 on the file of the first respondent and quash the same in so far as it relates to the furnishing of bank guarantee of balance of tax and penalty as illegal and direct the 2nd respondent to accept the personal bond to be executed by the petitioner in lieu of security.

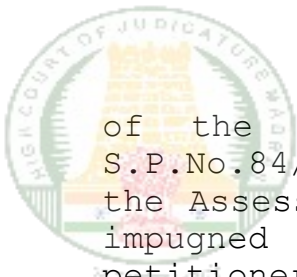
For Petitioner : Mr.S.Karunakar
For Mr.N.Sudalaimuthu

For Respondents : Mr.N.Shanmugaselvam,
Additional Government Pleader

O R D E R

The instant writ petition has been filed challenging the order dated 22.02.2019 passed by the first respondent in S.P.No.84/2018 in A.P.No.V/171/2018.

2. It is the case of the petitioner that he is a registered dealer under the Tamil Nadu Value Added Tax (TN VAT) Act, 2006. Assessed by the assessment order dated 15.05.2018 for the Assessment year 2013-14, the petitioner preferred an Appeal in A.P.No.V/171/2018 before the first respondent. During the pendency



of the Appeal, the petitioner filed the stay petition in S.P.No.84/2018 seeking stay of the recovery of the demand as per the Assessment order dated 15.05.2018. The first respondent by the impugned order dated 22.02.2019 granted stay in favour of the petitioner on the following conditions:

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

(ii) The petitioner is ordered to pay Rs.5,91,673/- in one lump sum and for the remaining tax of Rs.11,83,119/- and penalty for Rs.36,84,696/- bank guarantee should be furnished on or before 23.03.2019 before the Assessing Officer.

(iii) The Bank guarantee shall be for a period of six months and the duplicate copy of Bank guarantee attested by Commercial Tax Officer (Additional) (ST), Nagercoil Rural shall be filed in this office for awareness and file purpose."

3. According to the petitioner, he has paid a sum of Rs.5,91,673/- on 15.03.2019. Aggrieved by the remaining directions issued by the first respondent under the impugned order viz., bank guarantee for the remaining tax of Rs.11,83,119/- and penalty for Rs.36,84,696/- to be furnished on or before 23.03.2019 before the Assessing Officer and a Bank guarantee for a period of six months and the duplicate copy of bank guarantee attested by the Commercial Tax Officer (Additional) (ST), Nagercoil Rural, the instant writ petition has been filed.

4. Heard Mr.S.Karunakar, learned counsel appearing on behalf of Mr.N.Sudalaimuthu, learned counsel for the petitioner and Mr.N.Shanmugaselvam, learned Additional Government Pleader appearing for the respondents.

5. This issue has been considered by this Court by its earlier order dated 15.02.2019 in W.P.(MD) No.3448 of 2019 in the case of **M/s.Arasan Syntex Ltd., vs., the Appellate Authority/ Deputy Commissioner and another**, wherein in lieu of the security bond or bank guarantee, the dealer was permitted to substitute the same by a personal bond. Similarly, the petitioner in the instant writ petition is directed to execute a personal bond for a sum of Rs.48,67,815/- on or before 30.04.2019 in lieu of the bank guarantee for the said sum as directed by the first respondent under the impugned order.

6. Considering the pendency of the Appeal, this Court directs the respondents to dispose of the appeal within a period of six months from the date of receipt of a copy of this order. It is also made clear that failure on the part of the petitioner to comply



with the direction given by this Court, the earlier order dated 22.02.2019 passed by the first respondent will be restored. With the aforesaid directions, the **Writ Petition is disposed of**. No costs.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

Sts

To

- 1.The Appellate Authority/Deputy Commissioner,
Sales Tax, (ST) (FAC)
Tirunelveli.
- 2.The Commercial Tax Officer,
Nagercoil Rural Assessment Circle,
Nagercoil.

+1CC TO MR.S.KARUNAKAR, Advocate Sr. No.57417

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.57341

Order made in
W.P. (MD) No. 7212 of 2019
27.03.2019

TR (27.04.2019) 3P 5C