

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

DATED: 29.03.2019

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**W.P. (MD) .No.7553 of 2019**

M/s.AMC Traders,
Rep., by its Proprietor M.Chinnakannu,
No.61, Old Hospital Road,
Mailam, trichy.

... Petitioner

-vs-

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

2) The Assistant Commissioner (ST),
Mailamchandai - I Assessment Circle,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records in S.P.No.11/2019 in AP No.16/2019 dated 04.03.2019 on the file of the 1st 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 petitioners in lieu of security.

For Petitioner : Mr.N.Sudalaimuthu

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

ORDER

The instant writ petition has been filed challenging the order dated 04.03.2019 passed by the first respondent in S.P.No.11 of 2019 in A.P.No.16 of 2019.

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. <https://hsn.gov.in/hsn-services> the assessment order dated 07.12.2018 for the Assessment year 2014-15, the petitioner preferred an Appeal in A.P.No.16 of 2019 before the first respondent. During the pendency



of the Appeal, the petitioner filed the stay petition in S.P.No.11 of 2019 seeking stay of the recovery of the demand as per the Assessment order dated 07.12.2018. The first respondent by the impugned order dated 04.03.2019 granted stay in favour of the petitioner on the following conditions:

"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 petitioners shall pay a further payment of Rs.1,92,699/- on the disputed Tax, and file a Security bond or bank guarantee for the balance of tax and

penalty of Rs.10,91,994/- on or before 03.04.2019 or within 30 days from receipt of this order; and

(iii) The Bank guarantee shall be for a period of six months that is up to 03.09.2019 and the duplicate copy of Bank guarantee attested by Assistant Commissioner (ST), Mailamchandai-I, Assessment Circle, Trichy shall be filed in this office for notice."

3. According to the petitioner, he has paid a sum of Rs.1,92,699/- on 23.03.2019. Aggrieved by the remaining directions issued by the first respondent under the impugned order viz., to file a security bond or bank guarantee for the balance of tax and penalty Rs.10,91,994/- on or before 03.04.2019 or within a period of 30 days from the receipt of the order and the Bank guarantee for a period of six months (i.e.,) up to 03.09.2019 and the duplicate attested copies of AC (ST), Assistant Commissioner (ST), Mailamchandai-I, Assessment Circle, Trichy, the instant writ petition has been filed.

4. Heard 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.10,91,994/- on or before 03.04.2019 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 04.03.2019 passed by the first respondent will be restored. With the aforesaid directions, the **Writ Petition is disposed of**. No costs.

WEB COPY

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1) The Appellate Deputy Commissioner (ST) (FAC),
Trichy.
- 2) The Assistant Commissioner(ST),
Mailamchandai - I Assessment Circle,
Trichy.

+1 CC to M/s.S.KARUNAKAR, Advocate in SR-57894

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