

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2020

CORAM:

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

WP. No.569 of 2020

M/s.K.S.M.Auto Spares,
Represented by its Proprietor,
K.S.Srinivasan

..... Petitioner

vs.

1.The Tamil Nadu Sales Tax Appellate Tribunal,
Rep. by its Secretary,
2nd Floor, City Civil Court Buildings,
High Court Campus, Chennai - 600 104

2.The Deputy Commercial Tax Officer,
Tiruvannamalai -I Assessment Circle,
Near Collectorate,
Tiruvannamalai - 606 604

..... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus call for the records of the First Respondent in T.P. No.42 of 2019 in T.A. No.192 of 2019 dated 16.12.2019 and quash the same as illegal, arbitrary, without jurisdiction and authority of law and contrary to the principles of natural justice in so far as it directs the Petitioner to furnish the Bank Guarantee and further direct the Respondents to accept the personal Bond instead of Bank Guarantee.

For Petitioner : Mr.K.Soundararajan

For Respondents : Mr.ANR.Jayapratap,
Government Advocate

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O R D E R

Mr.ANR.Jayapratap, learned Government Advocate accepts notice for the respondents. By consent expressed by both the learned counsel, writ petition is taken up for final disposal at the stage of admission itself.

2. The prayer in the writ petition is for issuance of writ of Certiorarified Mandamus calling for the orders of the 1st respondent passed in T.P. No.42 of 2019 in T.A. No.192 of 2019 dated 16.12.2019 and quash of the same as illegal, arbitrary, without jurisdiction or authority of law and contrary to the principles of natural justice in so far as it directs the Petitioner to furnish a Bank Guarantee instead of a personal bond.

3. The assessment year in question is 2012-13. The first respondent, vide order dated 16.12.2019, has imposed a condition that the petitioner furnish sufficient bank guarantee covering the entire penalty amount of Rs.3,18,207/- to the satisfaction of the concerned Assessing Officer, within 21 days from date of receipt of order. The learned counsel appearing for the petitioner states that the tax component has been remitted, as ordered. However, he is aggrieved as against the condition imposed by the first respondent in regard to the furnishing of bank guarantees covering the amounts and penalty and stating that the same is seriously prejudicial to the petitioner. He requests that the same be modified by directing the petitioner to furnish a personal bond instead of a bank guarantee as directed by the first respondent.

4. Identical requests made have been considered by this Court favourably and the conditional order modified by permitting the petitioner to furnish a personal bond in the place of bank guarantee as directed by the appellate authorities. The order of this Court, dated 31.08.2018 in Writ Petition No.22427 of 2018 is one such.

5. Mr.ANR.Jayapratap, learned Government Advocate appearing on behalf of the respondents fairly does not dispute the aforesaid position or contest the request made.

6. In the light of the aforesaid and taking into account the position that the petitioner has remitted the entire tax component, the petitioner is permitted to furnish a personal bond in respect of the penalty of Rs.3,18,207/- within a period of three (3) weeks from date of receipt of a copy of this order. It is made clear that impugned order dated 16.12.2019 stands modified to this limited extent alone.

7. This Writ Petition is disposed in the aforesaid terms.
No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

rkp

To

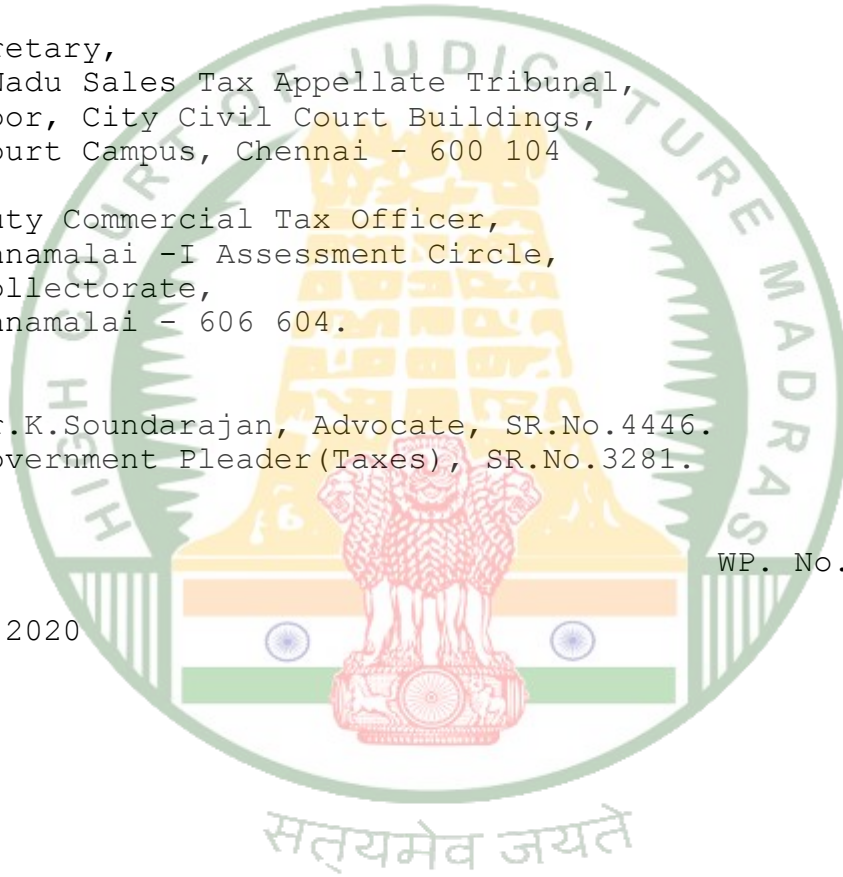
1.The Secretary,
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2.The Deputy Commercial Tax Officer,
Tiruvannamalai -I Assessment Circle,
Near Collectorate,
Tiruvannamalai - 606 604.

+1cc to Mr.K.Soundarajan, Advocate, SR.No.4446.
+1cc to Government Pleader (Taxes), SR.No.3281.

NMI (CO)
CSR:06.02.2020

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