

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.21672 & 21673 of 2015

and

W.M.P.Nos.1 & 1 of 2015

M/s.Hoya Medical India Private Limited,
Represented by its Director,
Mr.Mukesh Kumar Sinha,
Plot No.67, Numabl Madarvedu Village,
Thiruverkadu, Chennai – 600 077.

... Petitioner in both W.Ps.

vs.

1.The Appellate Deputy Commissioner (CT),
Chennai (South), 3rd Floor, C.T.Building Annex,
No.1, Greams Road, Chennai – 600 006.

2.The Assistant Commissioner (CT),
Nolambur Assessment Circle,
176, M.T.H.Road, Villivakkam,
Chennai – 600 049.

... Respondents in both W.Ps.

Prayer in W.P.No.21672 of 2015: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 01.07.2015 in SP No.88/2015 in AP No.91/2015-VAT passed by the 1st Respondent and quash the same and further direct the 1st respondent to accept a personal bond for the

balance tax payable in terms of the assessment order dated 30.01.2015 of the 2nd respondent.

Prayer in W.P.No.21673 of 2015: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 01.07.2015 in SP No.89/2015 in AP No.17/2015-CST passed by the 1st Respondent and quash the same and further direct the 1st respondent to accept a personal bond for the balance tax payable in terms of the assessment order dated 29.01.2015 of the 2nd respondent.

For Petitioner : Mr.G.Derrick Sam
(in both W.Ps)

For Respondents : Mr.A.N.R.Jayaprathap,
(in both W.Ps) Government Advocate

COMMON ORDER

These cases were listed under the caption “ for being mentioned” today, as the order dated 25.02.2021 passed in W.P.Nos.21672 and 21673 of 2015 was uploaded in the website with transcription error. It is noticed that it has been hosted in the website inadvertently. The original order that was dictated in the Court on 25.02.2021 is available in the Registry.

2. Hence, the order that was uploaded for W.P.Nos.21672 and 21673 of 2015 stands recalled with correct order which reads as under :-

“ By this common order both the writ petitions have been disposed of.

2. The petitioner has challenged the impugned stay order directing the petitioner to pay another 25% of the disputed tax amount over and above 25% already paid by the petitioner at the time of filing of the appeal on merits.

3. The learned counsel for the petitioner submits that the batch of cases were listed for hearing and orders were reserved on 21.12.2020 and orders are awaited. It is the submission of the learned counsel for the petitioner that the impugned order was passed mechanically and shows no application of mind while directing the petitioner to pay another 25% of the disputed tax and to furnish bank guarantee for the balance 50%.

4. The learned counsel for the respondent submits that the impugned orders are only interim order and it is the

discretion of the 1st respondent Appellate Deputy Commissioner to grant waiver after considering the merits of the case. He therefore prays for dismissal the present writ petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. I have perused the impugned order passed by the 1st respondent Appellate Deputy Commissioner (CT) by directing the petitioner to pay another 25% of the disputed tax and furnish bank guarantee for the balance 50%.

7. The orders passed by the 1st respondent do not discuss the case on merits. I therefore direct the petitioner to deposit the amount equivalent to 10% of the disputed tax over and above the amount already deposited within a period of 30 days from the date of receipt of a copy of this order. The petitioner shall also execute a personal bond undertaking to pay the difference in that amount and penalty to the 1st respondent, in case, any adverse order is passed by the 1st respondent within such time. The 1st respondent shall thereafter take up the case for final hearing and pass an order on merits within a period of three months thereafter.

8. Needless to state, the amount paid shall be refunded and the bond shall be discharged.

9. These Writ Petitions stand disposed with the above observations. No costs. Consequently, connected miscellaneous petitions are also closed.

26.03.2021

Index : Yes/No

Internet : Yes/No

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Office to Note :

Registry is directed to issue fresh order copy of the order and also host the same in the website by deleting the order that was hosted earlier.

To

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C.SARAVANAN,J.

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