IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.15693 & 15700 of 2022
& W.M.P.Nos.14938, 14941, 14946 & 14947 of 2022

Tvl.Sri Vari Gayathri Enterprises
Represented by its Proprietor
M.Amsa
No.190/VI, Road Street,
Melpakkam Village,
Kumpinipet (Post), Arakkonam Taluk,
Vellore District, PIN – 631 003 ...Petitioner in both W.Ps

Vs.

1. The Appellate Deputy Commissioner (ST),
   Vellore.

2. The State Tax Officer,
   Arakkonam Assessment Circle,
   Arakkonam, Vellore District. ...Respondents in both W.Ps

Prayer in W.P.No.15693 of 2022:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarifid Mandamus, calling for the records on the files of the 1st respondent herein in S.P.No.07/2022 in AP 23/2022 dated 02.06.2022 and quash the same while directing the petitioners to furnish personal bond for the remaining balance amount for Rs.13,78,751/- (Tax of Rs.4,59,582/- & Penalty of Rs.9,19,169/-).

Prayer in W.P.No.15700 of 2022:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarifid Mandamus, calling for the records on the files of the 1st respondent herein in S.P.No.08/2022 in AP 24/2022 dated 02.06.2022 and quash the same while directing the petitioners to furnish personal bond for the remaining balance amount for Rs.5,61,610/- (Tax of Rs.2,24,642/- & Penalty of Rs.3,36,968/-).

In both W.Ps
For Petitioner : Mr.ANR Jayaprathap

For Respondents : Mr.Richardson Wilson
Additional Government Pleader

COMMON ORDER

Mr.Richardson Wilson, learned Additional Government Pleader accepts notice for the respondents and is armed with requisite instructions to proceed with the matter finally even at the stage of admission. Hence, by consent of both learned counsel these writ petitions are taken up for final disposal.

2.The prayer in both the writ petitions is for issuance of a writ of certiorarified Mandamus calling for the records on the files of the 1st respondent herein in S.P.Nos.07&08/2022 in AP.Nos.23&24/2022, both dated 02.06.2022, quash the same insofar as it relates to the direction to furnish bank guarantee as referred to in paragraph 8(i) of the impugned orders dated 02.06.2022 and direct the petitioner to furnish personal bond instead of bank guarantee.

3.The assessment years in question are 2010-11 and 2011-12. The first respondent, vide impugned orders, while admitting that the petitioner had already paid a sum of Rs.2,29,795/- and Rs.1,12,325/- being 25% of the disputed tax, directed the petitioner to pay further sums of Rs.2,29,792 and 1,12,323/-and furnish bank guarantee for the remaining balance of tax and penalty for an amount of Rs.13,78,751/- and 5,61,610/- respectively on or before 01.07.2022.

4.Learned Counsel for the petitioner submits that the direction to pay the further sums of Rs.2,29,792 and 1,12,323/- has been complied with by the petitioner. He further submits that the petitioner is aggrieved against the condition imposed by the first respondent to furnishing of bank guarantee for the balance amount of the tax and penalty and requests that the same be modified by directing the petitioner to furnish a personal bond instead of bank guarantee as directed by the first appellate authority.

5.Identical requests made have been considered by this Court favorably 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. Order of this Court, dated 31.08.2018 in Writ Petition No.22427 of 2018 is one such.

6.Mr.Richardson Wilson, learned Additional Government Pleader appearing on behalf of the respondents fairly does not dispute the aforesaid position.

7.In light of the aforesaid and taking into account the position that the petitioner has remitted 25% of the disputed tax, the petitioner is permitted to furnish a personal bond in respect of the balance of tax and penalty to the tune of Rs.13,78,751/- and 5,61,610/- respectively within a period of four (4) weeks from today. Subject to the furnishing of personal bond by the petitioner, there shall be an order of stay of balance of the disputed tax and penalty till the disposal of the appeal by the first appellate authority. It is made clear that impugned orders dated 02.06.2022 stand modified to this limited extent alone.

8.In addition learned Standing Counsel will also request that a direction be issued to the second respondent, for expeditious disposal of the approval to which both the parties have no objection. Thus there is a direction to the second respondent to dispose the appeals, as expeditiously as possible, in any event, within a period of sixteen (16) weeks from date of receipt of a copy of this order.

9.These writ petitions stand disposed in the aforesaid terms. Connected writ miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Appellate Deputy Commissioner (ST),
   Vellore.

2. The State Tax Officer,
   Arakkonam Assessment Circle,
   Arakkonam, Vellore District.

+2cc to Mr.A.N.R.Jayaprathap, Advocate, S.R.No.39780, 39406

+1cc to the Special Government Pleader, (Taxes) S.R.No.39449

W.P.Nos.15693 & 15700 of 2022
&
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RGN(CO)
RGA(11/07/2022)