IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.07.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.16592 of 2022 &
WMP.No.15870 of 2022

Sri Sai Digital Solutions,
Rep. by its Proprietor K.Radhakrishnan,
D.No.113-A, Cherry Road, Salem – 636 007. ... Petitioner

Vs

1.The Assistant Commissioner (ST),
Hashthampatti Assessment Circle,
Salem – 7.

2.The Appellate Deputy Commissioner (ST) (FAC),
Commercial Taxes Building, Second Floor,
Hashthampatti, Salem. ... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of 2nd respondent in S.P.No.6/2022 in A.P.No.VAT 12/2022 dated 07.06.2022 and quash the same insofar as the condition No.II with regard to filing of security is concerned only.

For Petitioner : Mr.R.Senniappan
For Respondents: Mrs.K.Vasanthamala,
Government Advocate

O R D E R

Mrs.K.Vasanthamala, learned Government Advocate accepts notice for the respondents and is armed with instructions to proceed with the matter finally, even at the stage of admission. Hence, by consent of both sides, this Writ Petition is taken up for final disposal, even at the stage of admission.

2. The prayer in this writ petition is for issuance of writ of Certiorari calling for the records on the file of the 2nd respondent herein in S.P.No.06/2022 in A.P.No.VAT 12/2022, dated 07.06.2022 and quash the same insofar as the condition No.(ii) with regard to filing of security is concerned only.

3. The assessment year in question is 2013-14. The second respondent, vide impugned order, while admitting that the petitioner had already paid a sum of Rs.1,07,731/-, being 25% of the disputed tax, directed the petitioner to pay a sum of Rs.1,07,731/- and furnish valid security by way of bank guarantee in respect of the balance of tax and penalty for an amount of Rs.6,46,383/-, within 30 days of the receipt of that order.

4. Learned counsel for the petitioner submits that the direction to pay a sum of Rs.1,07,731/- has been complied with by the petitioner. He further submits that the petitioner is aggrieved against the condition imposed by the second respondent in regard to the furnishing of bank guarantee for the balance of the disputed 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 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.

6. Mrs.K.Vasanthamala, learned Government Advocate appearing on behalf of the respondents fairly does not dispute the aforesaid position or contest the request made.

7. In light of the aforesaid and taking into account the position that the petitioner has remitted 50% 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.8,61,3843/- 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 order dated 07.06.2022 stands modified to this limited extent alone.

8. The Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner (ST),
Hashthampatti Assessment Circle,
Salem - 7.

2.The Appellate Deputy Commissioner (ST) (FAC),
Commercial Taxes Building, Second Floor,
Hashthampatti, Salem.

+1 cc to Mr.R.Senniappan, Advocate Sr.NO. 43030
+1 cc to Special Government Pleader(Taxes) Sr.NO.42479

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skm(CO)
A.SK(20/07/2022)